
“relevant person” has the meaning assigned by section 80(1)(b) of the 2011 Act, and

“trust deed” means—

5 (a) a voluntary trust deed granted by or on behalf of a debtor (“D”) whereby D’s estate (other than such of D’s estate as would not, under section 61(1) of the 2011 Act, vest in the trustee were D’s estate sequestrated) is conveyed to the trustee (“T”) for the benefit of D’s creditors generally, and

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

10 (i) the exclusion from the estate conveyed to T of the whole or part of D’s dwellinghouse, where a secured creditor holds a security over it, and

(ii) the fact that D’s estate is not conveyed to T for the benefit of creditors generally because the secured creditor has, at D’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,

15 (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.

20 Provisions ancillary to sections 80 and 81 of the 2011 Act

25 **3.** —(1) If a debtor or relevant person 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) is not to 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.

30 (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 83 of the 2011 Act, referred to as an “examining commissioner”).

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

35 (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 (“D”) or a relevant person to produce for inspection any document—

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

40 (b) relating to D’s assets, D’s dealings with those assets or D’s conduct in relation to D’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.

Effect of discharge under section 98 of the 2011 Act

4. —(1) On the discharge of the debtor (“D”) under section 98 of the 2011 Act, D is discharged of all debts and obligations contracted by D, or for which D was liable, at the date of sequestration.

5 (2) Paragraph (1) is subject to paragraphs (3) and (5).

(3) D 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),

10 (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,

15 (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

20 (g) the obligation imposed on D by section 131 of the 2011 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 1 to the 2011 Act, or

25 (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.

30 (5) The discharge of D under section 98 of the 2011 Act does not affect any right of a secured creditor for an obligation in respect of which D has been discharged, to enforce the security in respect of the 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).

35 (7) In construing paragraph (3)(b), paragraph 33(1) of the schedule to the Criminal Proceedings etc. (Reform) (Scotland) Act 2007(d) (construction of references to the district court) is to be disregarded.

(a) c.46.
(b) c. 48.
(c) c. 29.
(d) asp 6.

(8) This article extends to all parts of the United Kingdom other than Scotland (and is without prejudice to section 100 of the 2011 Act).

Regulations under section 67 or 70 of the 2011 Act

- 5 **5.** —(1) Any power of the Secretary of State to make regulations under section 67 or 70 of the 2011 Act is exercisable by statutory instrument.
- (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.
- 10 (4) Any power to make such regulations may, in so far as it relates to a matter to which the EC Regulation applies, be exercised for the purpose of making provision in consequence of the EC Regulation.

Limitation of actions

- 15 **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, 3 or 4 of the 2011 Act,
 - (b) the submission of a claim under section 32 or 87 of that Act,
 - 20 (c) the submission by a creditor of a claim to the trustee in a sequestration acting under a trust deed,
 - (d) concurrence in a debtor application under section 6 of the 2011 Act.
- (2) Reference in paragraph (1) to any of a creditor's acts mentioned in sub-paragraphs (a) to (d) of that paragraph 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.
- 25 (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.
- 30 (4) This article extends to all parts of the United Kingdom other than Scotland (and is without prejudice to sections 12(6), 13(6), 32(11), and 87(3) of, and paragraph 4 of schedule 4 to, the 2011 Act).

Discharge on composition

- 35 **7.** —(1) On the granting of a certificate under paragraph 13(1) of schedule 3 to the 2011 Act the debtor to which the certificate relates is discharged of all debts for which liable at the date of sequestration (other than the debts mentioned in article 11(3)).
- (2) This article extends to all parts of the United Kingdom other than Scotland (and is without prejudice to paragraph 20(1)(b) of schedule 3 to the 2011 Act).
- 40

Modifications, repeals and revocations

- 8.** —(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 any of the enactments repealed, revoked or modified by this Order in their operation in relation to a sequestration as regards which the award was made before the coming into force of this Order.

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

Sequestrations to which Order applies

9. This Order applies to sequestrations as regards which the petition is presented, or the debtor application is made—

(a) on or after the date on which the 2011 Act comes into force, or

(b) before that date, but in respect of which no award of sequestration has been made by that date.

Crown application

10. This Order binds the Crown as creditor only.

Signature

Date

SCHEDULE 1

MODIFICATION OF PUBLIC GENERAL ACTS

5 *Superannuation Act 1972 (c.11)*

- 1 In section 5(2) of the Superannuation Act 1972 (benefits under civil service superannuation schemes not assignable), for the words “32(2) and (4) of the Bankruptcy (Scotland) Act 1985” there is substituted “57(3), (4) and (15) of the Bankruptcy (Scotland) Act 2011”.

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Control of Pollution Act 1974 (c.40)

- 2 (1) The Control of Pollution Act 1974 is amended as follows.
- (2) In section 30Y(b)(i) (abandoned mines: introductory)—
- (a) for the word “permanent” there is substituted “trustee”, and
- 15 (b) for the words “1985” there is substituted “2011”.
- (3) In section 30Z(5)(a) (mine operators to give SEPA six months’ notice of any proposed abandonment)—
- (a) for the word “permanent” there is substituted “trustee”, and
- (b) for the words “1985” there is substituted “2011”.

20 *Insolvency Act 1986 (c.45)*

- 3 (1) The Insolvency Act 1986 is amended as follows.
- (2) In section 51(6) (appointment of receiver), in the definition of “bankruptcy restrictions order”—
- (a) in paragraph (a), for the words “56A of the Bankruptcy (Scotland) Act 1985 (c.66)” there is substituted “105 of the Bankruptcy (Scotland) Act 2011 (asp 00)”, and
- 25 (b) in paragraph (b), for the words “56G” there is substituted “111”.
- (3) In section 185(1) (effect of diligence: Scotland), for the words from “1985” to the end of paragraph (b) there is substituted—
- 30 “2011—
- (a) subsections (3) to (10) of section 20 (effect of sequestration on land attachment) and (1) to (10) of section 21 (further provision as regards the effect of sequestration on diligence); and
- (b) subsections (6), (7), (10) and (11) of section 72 (management and realisation of estate,”.
- 35

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- (4) In section 193 (unclaimed dividends: Scotland)—
- (a) in subsection (2), for the words “73(1) of the Bankruptcy (Scotland) Act 1985” there is substituted “143(1) of the Bankruptcy (Scotland) Act 2011”, and
 - (b) in subsection (3), for the words—
 - (i) “58 of the Bankruptcy (Scotland) Act 1985” there is substituted “103 of the Bankruptcy (Scotland) Act 2011”, and
 - (ii) “57” there is substituted “102”.
- (5) In section 242(3)(a) (gratuitous alienations: Scotland), for the words “1985” there is substituted “2011”.
- (6) In section 388 (meaning of “act as an insolvency practitioner”)—
- (a) in subsection (2)(a), for the word “permanent” there is substituted “trustee”,
 - (b) in subsection (3), for the words “1985” there is substituted “2011”,
 - (c) in subsection (4), for the definition of “interim trustee” and “permanent trustee” there is substituted—
“sequestration” means sequestration under the Bankruptcy (Scotland) Act 2011”,
and
 - (d) in subsection (5)(b), for the words “1985” there is substituted “2011”.
- (7) In section 389(2) (acting without qualification an offence), for the words “1985” there is substituted “2011”.
- (8) In section 426(10)(b) (co-operation between courts exercising jurisdiction in relation to insolvency), for the words “1985” there is substituted “2011”.
- (9) In section 435(5)(a) (meaning of “associate”), for the words “1985” there is substituted “2011”.
- (10) In paragraph 14 of Schedule 8 (provisions capable of inclusion in company insolvency rules), for the words “1985” there is substituted “2011”.

Companies Act 1989 (c.40)

- 4 (1) The Companies Act 1989 is amended as follows.
- (2) In section 159(2) (proceedings of exchange or clearing house take precedence over insolvency proceedings), for the words “1985” there is substituted “2011”.
 - (3) In section 161 (supplementary provisions as to default proceedings)—
 - (a) in subsection (2), for the words “permanent trustee on the sequestrated” there is substituted “trustee in the sequestration of the”, and
 - (b) in subsection (4), for the words “1985” there is substituted “2011”.
 - (4) In section 163(3) (net sum payable on completion of default proceedings), for the words “73(1) of the Bankruptcy (Scotland) Act 1985” there is substituted “19(8) of the Bankruptcy (Scotland) Act 2011”.

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- (5) In section 164 (disclaimer of property, rescission of contracts etc.)—
- (a) in subsection (2)—
- (i) for the words “permanent trustee on the sequestrated” there is substituted “trustee in the sequestration of the”, and
- 5 (ii) for the words “42 of the Bankruptcy (Scotland) Act 1985” there is substituted “73 of the Bankruptcy (Scotland) Act 2011”, and
- (b) in subsection (3), for the words “32(8) of the Bankruptcy (Scotland) Act 1985” there is substituted “60(3) of the Bankruptcy (Scotland) Act 2011”.
- (6) In section 165(2)(a) (adjustment of prior transactions), for the words “34 or 36 of the Bankruptcy (Scotland) Act 1985” there is substituted “62 or 63 of the Bankruptcy (Scotland) Act 2011”.
- (7) In section 175(4) (administration orders etc.), for the words “32(8) of the Bankruptcy (Scotland) Act 1985” there is substituted “60(3) of the Bankruptcy (Scotland) Act 2011”.
- 15 (8) In section 180(2) (proceedings against market property by unsecured creditors), for the words “1985” there is substituted “2011”.
- (9) In section 182(2) (powers of court in relation to certain proceedings begun before commencement), for the words “1985” there is substituted “2011”.
- (10) In section 190 (minor definitions)—
- 20 (a) in subsection (1)—
- (i) for the definitions of “interim trustee” and “permanent trustee” there is substituted—
- ““interim trustee” has the same meaning as in the Bankruptcy (Scotland) Act 2011”, and
- 25 (ii) at the appropriate place there is inserted—
- ““sequestration” means sequestration under the Bankruptcy (Scotland) Act 2011;”,
- (b) in subsection (6), for the words “1985” there is substituted “2011”, and
- (c) in subsection (7)(b), for the words “or permanent trustee” there is substituted “trustee or to a trustee in the sequestration of an estate”.
- 30 (11) In section 191 (index of defined expressions), in the table—
- (a) the entry relating to “permanent trustee” is omitted, and
- (b) for the entry relating to “trustee, interim or permanent (in relation to Scotland)” there is substituted—
- 35 (i) in the first column, “trustee (in relation to Scotland)”, and
- (ii) in the second column, “section 190(1) and (7)(b)”.

Environmental Protection Act 1990 (c.43)

- 5 In section 78X(4)(e) of the Environmental Protection Act 1990 (supplementary provisions)—
- 40 (a) for the word “permanent” there is substituted “trustee”, and

(b) for the words “1985” there is substituted “2011”.

Water Resources Act 1991 (c.57)

6 (1) The Water Resources Act 1991 is amended as follows.

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

- 5 (i) for the word “permanent” there is substituted “trustee”, and
(ii) for the words “1985” there is substituted “2011”.

(3) In section 91B(5)(b) (mine operators to give the Environment Agency six months’ notice before an abandonment takes effect)—

- 10 (i) for the word “permanent” there is substituted “trustee”, and
(ii) for the words “1985” there is substituted “2011”.

Social Security Administration Act 1992 (c.5)

7 (1) The Social Security Administration Act 1992 is amended as follows.

(2) In section 71(10B) (overpayments), for the words “1985” there is substituted “2011”.

15 (3) In section 78(3B) (recovery of social fund awards), for the words “1985” there is substituted “2011”.

Taxation of Chargeable Gains Act 1992 (c.12)

8 In section 66(5) of the Taxation of Chargeable Gains Act 1992 (insolvents’ assets), in the definition of “trustee in bankruptcy”—

20 (a) for the words “permanent trustee within the meaning of” there is substituted “trustee in a sequestration under”, and

(b) for the words “1985” there is substituted “2011”.

Pension Schemes Act 1993 (c.48)

25 9 In section 47(7) of the Pension Schemes Act 1993 (entitlement to guaranteed minimum pension for purposes of relationship with social security benefits), for the words “36A of the Bankruptcy (Scotland) Act 1985” there is substituted “65 of the Bankruptcy (Scotland) Act 2011”.

Value Added Tax Act 1994 (c.23)

10 (1) The Value Added Tax Act 1994 is amended as follows.

30 (2) In section 73 (failure to make returns etc.), in each of subsections (5) and (10), for the words “interim or permanent trustee” there is substituted “trustee or interim trustee in a sequestration under the Bankruptcy (Scotland) Act 2011”.

(3) In section 75(4) (assessments in cases of acquisitions of certain goods by non-taxable persons), for the words “interim or permanent trustee” there is substituted “trustee or interim trustee in a sequestration under the Bankruptcy (Scotland) Act 2011”.

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- (4) In section 76(10) (assessments of amounts due by way of penalty, interest or surcharge), for the words “interim or permanent trustee” there is substituted “trustee or interim trustee in a sequestration under the Bankruptcy (Scotland) Act 2011”.
- (5) In section 78A(8) (assessment for interest overpayments), for the words “interim or permanent trustee” there is substituted “trustee or interim trustee in a sequestration under the Bankruptcy (Scotland) Act 2011”.
- (6) In section 81(5)(c) (interest given by way of credit and set-off of credits), for the words “1985” there is substituted “2011”.
- (7) In section 96(1) (interpretation), the definitions of “interim trustee” and “permanent trustee” are repealed.

Environment Act 1995 (c.25)

- 11 In Part 1 of Schedule 5 to the Environment Act 1995 (membership of flood defence committees), in paragraph 3(3)(a), for the words “54 of the Bankruptcy (Scotland) Act 1985” there is substituted “98 of the Bankruptcy (Scotland) Act 2011”.

Pensions Act 1995 (c.26)

- 12 (1) The Pensions Act 1995 is amended as follows.
- (2) In section 22(3) (circumstances in which certain provisions of the Act apply), for the definitions of “interim trustee” and “permanent trustee” there is substituted—
- ““interim trustee” has the same meaning as it has in the Bankruptcy (Scotland) Act 2011”.
- (3) In section 75(8)(b) (deficiencies in assets), for the words “1985” there is substituted “2011”.
- (a) in paragraph 6(3), for the words “or permanent” there is substituted “trustee or”.

Finance Act 1996 (c.8)

- 13 In section 50(10) of the Finance Act 1996 (power to assess), for the words from “an” to “1985)” there is substituted “a trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2011, of a person’s estate”.

Employment Rights Act 1996 (c.18)

- 14 (1) The Employment Rights Act 1996 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)” there is substituted “trustee or interim trustee in the sequestration of an estate under the Bankruptcy (Scotland) Act 2011”, and
- (b) in paragraph (b), for the word “permanent” there is substituted “trustee”.
- (3) In section 187(4)(a) (role of relevant officer)—
- (a) for the word “permanent” there is substituted “trustee”, and

(b) for the words “1985” there is substituted “2011”.

- (4) In section 189(2)(b) (transfer of rights and remedies), for the words “1985” there is substituted “2011”.

5 *Housing Grants, Construction and Regeneration Act 1996 (c.53)*

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

(a) in subsection (3)(b), for the words “12 of the Bankruptcy (Scotland) Act 1985” there is substituted “19 of the Bankruptcy (Scotland) Act 2011”, and

10 (b) in subsection (4)(b), for the words “1985” there is substituted “2011”.

Scotland Act 1998 (c.46)

16 In Part 2 of Schedule 5 to the Scotland Act 1998 (reserved matters: specific reservations), in Section C2, for the words “Bankruptcy (Scotland) Act 1985”, in both places where they appear, there is substituted “Bankruptcy (Scotland) Act 2011”.

15 *Welfare Reform and Pensions Act 1999 (c.30)*

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

(2) In subsection (2)—

(a) in paragraph (b), for the words “1985” there is substituted “2011”,

20 (b) in paragraph (d), for the words “permanent trustee or” there is substituted “trustee in a sequestration under the Bankruptcy (Scotland) Act 2011 or to his”, and

(c) in paragraph (e), for the words “12(4) of the Bankruptcy (Scotland) Act 1985” there is substituted “19(8) of that Act”.

25 (3) In subsection (3), in the paragraph to be substituted for each of subsections (5) and (7) of section 11 of the Act, for the words “12(4) of the Bankruptcy (Scotland) Act 1985” there is substituted “19(8) of the Bankruptcy (Scotland) Act 2011”.

Financial Services and Markets Act 2000 (c.8)

18 (1) The Financial Services and Markets Act 2000 is amended as follows.

30 (2) In section 220(3)(b) (scheme manager’s power to inspect information held by liquidator etc.), for the words from “permanent” to “on” there is substituted “trustee in the sequestration, under the Bankruptcy (Scotland) Act 2011, of”.

(3) In section 355(1) (interpretation of part 24 of the Act)—

(a) the definition of “the 1985 Act” is repealed, and

(b) after the definition of “the 1989 Order” there is inserted—

35 ““the 2011 Act” means the Bankruptcy (Scotland) Act 2011;”.

(4) In section 358 (authority’s powers to participate in proceedings: trust deeds for creditors in Scotland)—

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- (a) in subsection (2)(b), for the words “5(1)(c) of Schedule 5 to the 1985” there is substituted “6(1)(c) of schedule 4 to the 2011”,
 - (b) subsection (3) is repealed, and
 - (c) in subsection (7), for the words “1985” there is substituted “2011”.

- 5 (5) In section 372(1)(b) (petitions), for the words “5 of the 1985” there is substituted “2 or 3 of the 2011”.
- (6) In section 373(3) (insolvency practitioner’s duty to report to authority), for the words “12 of the 1985” there is substituted “19 of the 2011”.
- (7) In section 374 (authority’s powers to participate in proceedings)—
 - 10 (a) in subsection (1)—
 - (i) in paragraph (b), for the words “5 of the 1985” there is substituted “2 or 3 of the 2011”, and
 - (ii) in paragraph (c), for the words “6 of the 1985” there is substituted “4 of the 2011”,
 - 15 (b) in subsection (2)(b)(iii), for the words “1985” there is substituted “2011”, and
 - (c) in subsection (4)(c), for the words “17 or 18 of Schedule 6 to the 1985” there is substituted “26 or 27 of schedule 5 to the 2011”.

Terrorism Act 2000 (c.11)

- 19 (1) Schedule 4 to the Terrorism Act 2000 (forfeiture orders) is amended as follows.
- 20 (2) In paragraph 48(4), for the words “51(1) of the Bankruptcy (Scotland) Act 1985” there is substituted “90(1) of the Bankruptcy (Scotland) Act 2011”.
- (3) In paragraph 51(4), for the words “1985” there is substituted “2011”.
- (4) In paragraph 53(1)(c), for the words “permanent or interim trustee on the” there is substituted “trustee or interim trustee in the sequestration of a”.

Limited Liability Partnerships Act 2000 (c.12)

- 20 In section 7(2)(b) of the Limited Liability Partnerships Act 2000 (ex-members), for the words from “or permanent” to “1985) or” there is substituted “, the trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2011, of his estate or his”.

Finance Act 2000 (c.17)

- 21 In Schedule 6 to the Finance Act 2000 (climate change levy)—
 - (a) in paragraph 75(2)(i), for the words “1985” there is substituted “2011”,
 - (b) in paragraph 76(3), for head (a) there is substituted—
 - 35 “(a) a trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2011 (asp 00), of a person’s estate;”,
 - (c) in paragraph 91(4), for head (a) there is substituted—

“(a) a trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2011 (asp 00), of a person’s estate;”;

(d) in paragraph 103(5), for head (a) there is substituted—

“(a) a trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2011 (asp 00), of a person’s estate;”, and

(e) in paragraph 120(7)(k), for the words “1985” there is substituted “2011”.

Finance Act 2001 (c.9)

22 (1) The Finance Act 2001 is amended as follows.

(2) In section 37(7)(k) (insolvency etc.), for the words “1985 (c.66)” there is substituted “2011 (asp 00)”.

(3) In paragraph 19(4) of Schedule 5 (aggregates levy: recovery and interest), for head (a) there is substituted—

“(a) a trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2011 (asp 00), of a person’s estate;”.

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

(a) in paragraph 11(2)(i), for “1985 (c.66)” there is substituted “2011 (asp 00)”, and

(5) In paragraph 12(3), for head (a) there is substituted—

“(a) a trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2011 (asp 00), of a person’s estate;”.

(6) In paragraph 1(5) of Schedule 10 (aggregates levy: assessment of civil penalties and interest on them), for head (a) there is substituted—

“(a) a trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2011 (asp 00), of a person’s estate;”.

Proceeds of Crime Act 2002 (c.29)

23 (1) The Proceeds of Crime Act 2002 is amended as follows.

(2) In section 84(2)(d) (property: general provisions), for the words from “, permanent” to the end there is substituted “or liquidator or in the trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2011 (asp 00)), of his estate”.

(3) In section 95(3) (available amount), in the definition of “preferred debt”, for the words “51(2) of the Bankruptcy (Scotland) Act 1985 (c.66)” there is substituted “90(2) of the Bankruptcy (Scotland) Act 2011 (asp 00)”.

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

(a) the words from “permanent” to “(c.66),” are repealed, and

(b) at the end there is added “or in the trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2011 (asp 00)), of his estate”.

(5) In section 232(2)(d) (property: general provisions), for the words from “, permanent” to the end there is substituted “or liquidator or in the trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2011 (asp 00)), of his estate”.

(6) In section 311 (insolvency)—

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- (a) in subsection (3)—
- (i) in paragraph (c), for the words “2 of the 1985” there is substituted “37 of the 2011”, and
- (ii) in paragraph (f), for the words “1985” there is substituted “2011”,
- 5 (b) in subsection (7)(a), for the words “1985 Act means the Bankruptcy (Scotland) Act 1985 (c.66)” there is substituted “2011 Act means the Bankruptcy (Scotland) Act 2011 (asp 00)”, and
- (c) in subsection (8)(a), for the words “1985 Act is the applicable enactment, any property comprised in an estate to which the 1985” there is substituted “2011 Act is the applicable enactment, any property comprised in an estate to which that Act”.
- 10 (7) in section 420 (modifications of the Bankruptcy (Scotland) Act 1985)—
- (a) in subsection (2), for the words “1985” there is substituted “2011”,
- (b) in subsection (4), for the words—
- 15 (i) “permanent trustee” there is substituted “trustee in the sequestration”, and
- (ii) “48 of the 1985” there is substituted “84 of the 2011”, and
- (c) in subsection (5), for the words “2(5) of the 1985” there is substituted “37(8) of the 2011”.
- (8) The title of section 420 becomes “Modifications of the 2011 Act”.
- 20 (9) In section 421 (restriction of powers)—
- (a) in subsection (3)(a), for the words “31(8) of the 1985” there is substituted “51 of the 2011”,
- (b) in subsection (3)(b), for the words—
- (i) “32(2)” there is substituted “57(4)”, and
- 25 (ii) “permanent trustee” there is substituted “trustee in the sequestration”,
- (c) in subsection (3)(c), for the words—
- (i) “31(10) or 32(6)” there is substituted “51(4) or 59(4)”, and
- (ii) “permanent trustee” there is substituted “trustee in the sequestration”.
- (d) in subsection (4), for the words “1985” there is substituted “2011”, and
- 30 (e) subsections (5) and (6) are repealed.
- (10) In section 422 (tainted gifts), in each of subsections (2) and (3), for the words “34 or 36 of the 1985” there is substituted “62 or 63 of the 2011”.
- (11) In section 434 (interpretation)—
- (a) in subsection (1)—
- 35 (i) paragraph (a) is repealed, and
- (ii) after paragraph (d) there is inserted—
- “(da) the 2011 Act is the Bankruptcy (Scotland) Act 2011 (asp 00);”, and
- (b) in subsection (2), for the words “12(4) of the 1985” there is substituted “19(8) of the 2011”.

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- (12) In paragraph 3 of Schedule 3 (administrators: further provision), in sub-paragraph (10), for the words “74 of the Bankruptcy (Scotland) Act 1985 (c.66)” there is substituted “144 of the Bankruptcy (Scotland) Act 2011 (asp 00)”.

Civil Partnership Act 2004 (c.33)

- 5 24 In paragraph 23 of Schedule 21 to the Civil Partnership Act 2004 (references to stepchildren in existing Acts), for the words “74(4)(a) of the Bankruptcy (Scotland) Act 1985 (c.66)” there is substituted “144(6) of the Bankruptcy (Scotland) Act 2011 (asp 00)”.

Pensions Act 2004 (c.35)

- 10 25 (1) The Pensions Act 2004 is amended as follows.
- (2) In section 38(10)(c) (contribution notices where avoidance of employer debt), for the words “74 of the Bankruptcy (Scotland) Act 1985 (c.66)” there is substituted “144 of the Bankruptcy (Scotland) Act 2011 (asp 00)”.
- 15 (3) In section 51(3)(c) (interpretation), for the words “74 of the Bankruptcy (Scotland) Act 1985 (c.66)” there is substituted “144 of the Bankruptcy (Scotland) Act 2011 (asp 00)”.
- (4) In section 53(6)(c) (restoration orders: supplementary), for the words “74 of the Bankruptcy (Scotland) Act 1985 (c.66)” there is substituted “144 of the Bankruptcy (Scotland) Act 2011 (asp 00)”.
- 20 (5) In section 57(2)(c) (partnerships and limited liability partnerships), for the words “74 of the Bankruptcy (Scotland) Act 1985 (c.66)” there is substituted “144 of the Bankruptcy (Scotland) Act 2011 (asp 00)”.
- (6) In section 121(4)(b) (insolvency event, insolvency date and insolvency practitioner), for the words “12 of the Bankruptcy (Scotland) Act 1985 (c.66)” there is substituted “19 of the Bankruptcy (Scotland) Act 2011 (asp 00)”.

25 *Income Tax (Trading and Other Income) Act 2005 (c.5)*

- 26 In section 259(a) (meaning of “statutory insolvency arrangement”), for the words “4 or 5 to the Bankruptcy (Scotland) Act 1985” there is substituted “3 or 4 to the Bankruptcy (Scotland) Act 2011”.

Gambling Act 2005 (c.19)

- 30 27 (1) The Gambling Act 2005 is amended as follows.
- (2) In section 114(1)(d) (operating licences: lapse), for the words “12(1) of the Bankruptcy (Scotland) Act 1985 (c.66)” there is substituted “19(1) of the Bankruptcy (Scotland) Act 2011 (asp 00)”.
- 35 (3) In section 194(1)(d) (premises licences: lapse), for the words “12(1) of the Bankruptcy (Scotland) Act 1985 (c.66)” there is substituted “19(1) of the Bankruptcy (Scotland) Act 2011 (asp 00)”.
- (4) In paragraph 15 of Schedule 10 (family entertainment centre gaming machine permits), in sub-paragraph (1)(d), for the words “12(1) of the Bankruptcy (Scotland) Act 1985 (c.66)” there is substituted “19(1) of the Bankruptcy (Scotland) Act 2011 (asp 00)”.

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- (5) In paragraph 15 of Schedule 14 (prize gaming permits), in sub-paragraph (1)(d), for the words “12(1) of the Bankruptcy (Scotland) Act 1985 (c.66)” there is substituted “19(1) of the Bankruptcy (Scotland) Act 2011 (asp 00)”.

Companies Act 2006 (c.46)

- 5 28 (1) The Companies Act 2006 is amended as follows.
- (2) In section 102(5) (re-registration of private limited company as unlimited)—
- (a) for paragraph (a) there is substituted—
- “(a) a trustee in the sequestration of the estate of a member of the company;”,
and
- 10 (b) in paragraph (b), for the words “1985” there is substituted “2011 (asp 00)”.
- (3) In section 109(5) (re-registration of public company as private and unlimited)—
- (a) for paragraph (a) there is substituted—
- “(a) a trustee in the sequestration of the estate of a member of the company;”,
and
- 15 (b) in paragraph (b), for the words “1985” there is substituted “2011 (asp 00)”.
- (4) In section 148(4)(a)(ii) (termination or suspension of nomination), for the words “1985 (c.66)” there is substituted “2011 (asp 00)”.
- (5) In section 310(3)(b) (persons entitled to receive notice of meetings), for the words “1985 (c.66)” there is substituted “2011 (asp 00)”.
- 20 (6) In section 982(8) (further provision about consideration held on trust under section 981(9) of the Act) for the words—
- (a) “58 of the Bankruptcy (Scotland) Act 1985 (c.66)” there is substituted “103 of the Bankruptcy (Scotland) Act 2011 (asp 00)”, and
- (b) “57(1)(a)” there is substituted “102(1)(a)”.
- 25 (7) In Part 6 of Schedule 5 (communications by a company: supplementary provisions), in paragraph 17(5)(b), for the words “1985 (c.66)” there is substituted “2011 (asp 00)”.

Armed Forces Act 2006 (c.52)

- 29 In section 356(4)(b)(ii) of the Armed Forces Act 2006 (avoidance of assignment of, or charge on, pay and pensions etc.), for the words “permanent trustee in a sequestration”
- 30 there is substituted “trustee in the sequestration of a person’s estate”.

Serious Crime Act 2007 (c.27)

- 30 In section 27(8) of the Serious Crime Act 2007 (power to wind up companies etc: England and Wales and Scotland), for “1985 (c.66)” there is substituted “2011 (asp 00)”.

Banking Act 2009 (c.1)

31 In section 103 of the Banking Act 2006 (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 the words “section 37(1) of the Bankruptcy (Scotland) Act 1985” there is
5 substituted “section 21(1) and (2) of the Bankruptcy (Scotland) Act 2011”.

Corporation Tax Act 2009 (c.4)

32 In section 1319 of the Corporation Tax Act 2009 (interpretation), in paragraph (a) of the
definition of “statutory insolvency arrangement”, for the words “4 or 5 to the
Bankruptcy (Scotland) Act 1985” there is substituted “3 or 4 to the Bankruptcy
10 (Scotland) Act 2011”.

Coroners and Justice Act 2009 (c.25)

33 (1) The Coroners and Justice Act 2009 is amended as follows.

(2) In section 164(6) (the available amount), in the definition of “preferred debts”, for the
15 words “51(2) of the Bankruptcy (Scotland) Act 1985 (c.66)” there is substituted “90(2)
of the Bankruptcy (Scotland) Act 2011 (asp 00)”.

(3) In section 165(3)(c) (property), for the words from “, permanent” to the end there is
substituted “or liquidator or in the trustee or interim trustee in the sequestration, under
20 the Bankruptcy (Scotland) Act 2011 (asp 00), of the person’s estate;”.

SCHEDULE 2

REPEALS AND REVOCATIONS

PART 1

REPEALS

<i>Enactment</i>	<i>Extent of repeal</i>
Gas Act 1986 (c.44)	In Schedule 7, paragraph 32.
Social Security Act 1986 (c.50)	In Schedule 10, paragraph 80.
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.
Child Support Act 1991 (c.48)	In Schedule 5, paragraph 6.
Pension Schemes Act 1993 (c.48)	In Schedule 8, paragraph 17.
Value Added Tax Act 1994 (c.23)	In Schedule 14, paragraph 9.
Finance Act 1994 (c.9)	In Schedule 7, paragraph 7(3) to (5).
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)	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.
Enterprise Act 2002 (c.40)	Section 251(2).
Income Tax (Earnings and Pensions) Act 2003 (c.1)	In Schedule 6, paragraph 153.

<i>Enactment</i>	<i>Extent of repeal</i>
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.
Consumer Credit Act 2006 (c.14)	In Schedule 3, paragraph 15(5)(f).
Pensions Act 2007 (c. 22)	In Schedule 5, paragraphs 1 and 2.
Serious Crime Act 2007 (c.27)	In Schedule 8, paragraph 150.
Policing and Crime Act 2009 (c.26)	In Schedule 7, paragraphs 46 to 52.

PART 2

REVOCATIONS

<i>Enactment</i>	<i>Extent of revocation</i>
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.