



The Scottish Parliament
Pàrlamaid na h-Alba

Clerk to the Delegated Powers and Law Reform Committee
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1 December 2015

Bankruptcy (Scotland) Bill: Parts 9-14

1. The Delegated Powers and Law Reform Committee considered the above Bill on Tuesday 1 December and seeks an explanation of the following matters:

Part 9
Section 119(7)

2. It appears that the reference in section 119(7) to “subsection 75(a)” should be to “subsection (6)(a)”.

3. **The Committee draws this to the drafter’s attention.**

Part 14
Section 168

4. Section 168 of the Bill derives from regulation 8 of the Protected Trust Deeds (Scotland) Regulations 2013 (“the 2013 Regulations”). Regulation 8 refers in two places to “a living individual”. In section 168, one such reference is changed to “an individual” (see section 168(1)), while the other reference to “a living individual” is retained (see section 168(4)).

5. The Committee asks the drafter why in section 168, one reference to “a living individual” is retained while the other such reference is restated as “an individual”. Is there any reason for this difference in terminology?

Section 170(1)

6. Section 170(1) of the Bill provides that the trustee must send copies of various documents to creditors “not later than 7 days after *the date of publication*” of the notice in the register of insolvencies under section 169 of the Bill.

7. The equivalent regulation 10 of the 2013 Regulations provides that the trustee must send copies of the various documents to creditors “not later than 7 days after *registration*” of the notice in the register of insolvencies under regulation 9 of those Regulations.

8. The Committee asks the drafter:

Why the words “not later than 7 days *after registration*” in regulation 10 of the 2013 Regulations have been restated as “not later than 7 days *after the date of publication*” in section 170(1) of the Bill?

Is this considered to have any effect on the meaning of the provision?

Section 184(6)(d)

9. Section 184(6) seems to contain a drafting error.

10. Section 184(6) provides that:

“[t]he letter of discharge does not discharge the debtor from...

(d) affect the rights of a secured creditor.”

11. The Committee draws this matter to the drafter’s attention.

Section 186(8)

12. Section 186(8) of the Bill outlines various matters which the trustee must undertake upon discharge “without delay”. The equivalent provision in the 2013 Regulations (regulation 25(7)) provides that the trustee must carry out these matters “within 28 days of the date of discharge”.

13. The Committee asks the drafter:

Why the words “within 28 days of the date of discharge” in regulation 25(7) of the 2013 Regulations are changed to “without delay” in section 186(8) of the Bill?

What effect is this considered to have on the meaning of the provision?

14. Please email your response to the Delegated Powers and Law Reform Committee e-mail address above by **10am on Monday 7 December**.

Deborah Cook
Assistant Clerk to the Committee