

Drafter's response as regards the explanations sought by the Delegated Powers and Law Reform Committee in their e-mail to him of 1st December with regard to Parts 9 to 14 of the Bankruptcy (Scotland) Bill

Paragraphs 2 and 3: the reference, in subsection (7) of section 119 of the current Bill, to “subsection 75(a)” should indeed be to subsection (6)(a) of that section. The drafter is grateful to the Committee for drawing attention to the need for a correction.

Paragraphs 4 and 5: to qualify “individual” with “living” was considered unnecessary in section 168(1) of the current Bill since only a living individual can be the debtor for a protected trust deed (see section 164(1)(a) of the current Bill) and contributions required by the common financial tool are already confined to contributions from a living debtor's income (see section 89(1) of that Bill). But it appears that, in section 168(4) too, the word “living” can be dispensed with both for those reasons and since an individual who is other than live can scarcely be required to pay at regular intervals contributions from income for the benefit of creditors. It is considered therefore that “individual” will suffice at both places and that section 168(4) should be amended accordingly.

Paragraphs 6 to 8: since publication is by registration the date of registration in the register of insolvencies will in fact be the date of publication and there would be no change in meaning were reference made to “publication” rather than to “registration”; but equally there is no need to substitute a new word for the word used in the regulations and it is proposed therefore to revert to referring to “registration”.

Paragraphs 9 to 11: it is agreed that the words immediately preceding paragraphs (a) to (d) of section 184(6) do not run properly into the last of those paragraphs. The formatting of the section therefore requires to be adjusted. (There are various ways in which this might be done and consideration will be given as to what the best of those might be.)

Paragraphs 12 and 13: there does not appear to be any reasonable basis for making the change to which the Committee refer and it is proposed that the provision be brought instead more closely into conformity with regulation 25(7) of the Protected Trust Deeds (Scotland) Regulations 2013.

**Gregor Clark
Parliamentary Counsel
Scottish Law Commission.**