

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Second Delegated Legislation Committee

DRAFT BANKRUPTCY (SCOTLAND) ACT 2016  
(CONSEQUENTIAL PROVISIONS AND  
MODIFICATIONS) ORDER 2016

*Tuesday 18 October 2016*

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**Saturday 22 October 2016**

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**The Committee consisted of the following Members:**

*Chair:* † ANDREW ROSINDELL

- |   |  |
|---|--|
| † Anderson, Mr David ( <i>Blaydon</i> ) (Lab)                     | Johnson, Diana ( <i>Kingston upon Hull North</i> ) (Lab)               |
| † Ansell, Caroline ( <i>Eastbourne</i> ) (Con)                    | † Kerevan, George ( <i>East Lothian</i> ) (SNP)                        |
| † Brazier, Mr Julian ( <i>Canterbury</i> ) (Con)                  | † Morris, David ( <i>Morecambe and Lunesdale</i> ) (Con)               |
| † Brown, Alan ( <i>Kilmarnock and Loudoun</i> ) (SNP)             | Murray, Ian ( <i>Edinburgh South</i> ) (Lab)                           |
| † Cartledge, James ( <i>South Suffolk</i> ) (Con)                 | † Opperman, Guy ( <i>Lord Commissioner of Her Majesty's Treasury</i> ) |
| Clwyd, Ann ( <i>Cynon Valley</i> ) (Lab)                          | † Soames, Sir Nicholas ( <i>Mid Sussex</i> ) (Con)                     |
| † Davies, Dr James ( <i>Vale of Clwyd</i> ) (Con)                 | † Tami, Mark ( <i>Alyn and Deeside</i> ) (Lab)                         |
| † Donelan, Michelle ( <i>Chippenham</i> ) (Con)                   |  |
| Eagle, Ms Angela ( <i>Wallasey</i> ) (Lab)                        | Clementine Brown, <i>Committee Clerk</i>                               |
| † Ellis, Michael ( <i>Deputy Leader of the House of Commons</i> ) |  |
| † Fuller, Richard ( <i>Bedford</i> ) (Con)                        | † <b>attended the Committee</b>  |

## Second Delegated Legislation Committee

Tuesday 18 October 2016

[ANDREW ROSINDELL *in the Chair*]

### Draft Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016

2.30 pm

**The Deputy Leader of the House of Commons (Michael Ellis):** I beg to move,

That the Committee has considered the draft Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016.

It is a great pleasure to appear before you, Mr. Rosindell.

The draft order that we are considering was laid before the House on 13 July. By way of context, the order is made under section 104 of the Scotland Act 1998, which allows for necessary or expedient changes to legislation in consequence of an Act of the Scottish Parliament. The order is made in consequence of the Bankruptcy (Scotland) Act 2016, which is referred to as the “2016 Act”, and which was passed by the Scottish Parliament and received Royal Assent from Her Majesty on 28 April.

The purpose of the 2016 Act is to consolidate Scottish laws on insolvency and simply makes bankruptcy policy more accessible, both for the money advice community, which is very helpful, and for those experiencing financial difficulties, which is particularly helpful for them as well.

The drafting of the Bankruptcy consolidation Bill was led by the Scottish Law Commission, which, alongside officials from the Accountant in Bankruptcy in Scotland, undertook a consultation in 2011 on consolidating bankruptcy legislation before the Lord Advocate brought forward proposals for a Bill. The legislation has followed an entirely logical process.

At the moment, bankruptcy legislation in Scotland is considered rather confusing and difficult to follow. The Bankruptcy (Scotland) Act 1985 has been heavily amended over the years, and new primary legislation has been introduced since then, most recently the Bankruptcy and Debt Advice (Scotland) Act 2014.

As a result of the passage of time, and a number of measures being amalgamated, the legislation has become rather complex, and the time is now considered right to bring the elements together through primary consolidation legislation, and that is exactly what the legislation is. The move has been supported by the money advice and insolvency industry, as reflected in evidence to the Scottish Parliament when the legislation became the 2016 Act earlier this year.

Some provisions of the legislation consolidated require not merely to be restated in Scots law but for the other parts of the UK. That is one purpose of this particular order; we must make sure that it marries up with all parts of the United Kingdom. Articles 4 and 6 accordingly

restate provisions on the effect of the discharge from debts and on limitation of actions outside Scotland as a result of Scottish bankruptcies. Article 3 restates the current arrangements for examination in certain Scottish bankruptcy proceedings of persons residing in parts of the UK other than Scotland. In schedule 1, the order also updates cross-references in statutes across the UK, for instance it replaces references to “the 1985 Act” with references to “the 2016 Act”, which was passed in Scotland. Lastly, article 5 restates minor procedural provisions about powers of the Secretary of State.

The United Kingdom Government, the Scottish Government, Ministers and officials have all worked closely together to ensure that the order makes the necessary amendments to UK legislation in consequence of the 2016 Act of the Scottish Parliament.

I hope that you will agree, Mr Rosindell, that the order is an appropriate use of the powers in the Scotland Act and a further example of the UK Government’s commitment to work with the Scottish Government to make the devolution settlement work. I commend the order to the Committee.

2.34 pm

**Mr David Anderson (Blaydon) (Lab):** It is pleasure to be before you today, Mr Rosindell. To get straight to the point, this is a tidying-up exercise, which is long overdue. People who are facing the misery of bankruptcy and people trying to advise them do not need any complications on top of what they have got. The order does exactly the right thing by putting that right, and the Opposition are happy to support it.

2.35 pm

**George Kerevan (East Lothian) (SNP):** In my long perusal of the primary legislation, I notice that there was a debate in the Scottish Parliament on the move from the 1985 Act to the 2016 Act in which “forthwith” was changed to “without delay”, so I suggest that we proceed without delay.

2.35 pm

**Alan Brown (Kilmarnock and Loudoun) (SNP):** I know that my hon. Friend has said that we should proceed without delay, but being a politician and as I am here, I feel that I should speak. What I liked in the explanatory note, and what the Deputy Leader did not refer to, is its reference to section 104 of the 1998 Act. It states:

“Section 104 of the 1998 Act provides for subordinate legislation to be made by the UK Government”.

Hopefully, that is important for the future, and I am looking forward to more subordination from Westminster to Holyrood. On that note, I am happy to support the order.

**The Deputy Leader of the House of Commons (Michael Ellis):** There is nothing more that I wish to add, Mr Rosindell. I commend the order to the Committee.

*Question put and agreed to.*

2.36 pm

*Committee rose.*