

Bankruptcy (Scotland) Bill

Bill Number:	SP Bill 83
Introduced on:	30 October 2015
Introduced by:	Frank Mulholland, Lord Advocate (Government Bill)
Passed:	22 March 2016
Royal Assent:	28 April 2016

Passage of the Bill

The Bankruptcy (Scotland) Bill was introduced in the Scottish Parliament on 30 October 2015 by the Scottish Government. As a consolidation bill, the Bankruptcy (Scotland) Bill made no substantive changes to the existing law. Instead, its purpose was to restate existing legislation in an easier to understand format.

Consolidation bills are considered under a special parliamentary procedure. The [Bill as introduced](#) was [accompanied by tables of derivations and destinations](#). These detail what existing legislation has been consolidated, and where the previous law is to be found in the new Bill. There were also statements of legislative competence.

The Delegated Powers and Law Reform Committee undertook Stage 1 scrutiny in November and December 2015, and January 2016. The question considered by the Committee was whether the Bill should proceed as a consolidation bill.

The Committee produced its [Stage 1 Report](#) (7th Report, 2016 (Session 4)) on 20 January 2016. Fergus Ewing, Minister for Business, Energy and Tourism, [responded on behalf of the Scottish Government](#) in a letter dated 4 February 2016. A motion in relation to the Bill was agreed by the Parliament on [27 January 2016](#) (col 76).

The Delegated Powers and Law Reform Committee considered Stage 2 amendments to the Bill at its meeting on [23 February 2016](#) (cols 2 to 13). The [Bill as amended](#) was published on 24 February 2016.

Stage 3 proceedings took place on [22 March 2016](#) (cols 56 to 61). The Bill was passed without further amendment. The Bill received Royal Assent on 28 April 2016 to become the Bankruptcy (Scotland) Act 2016 (asp 21).

Purpose and objectives of the Bill

The purpose of a consolidation bill is to restate legislation in a more coherent form, so that the law is easier to understand. The Scottish Law Commission noted that existing bankruptcy legislation had been so heavily amended that it was difficult to follow.

Provisions of the Bill

When a person or entity becomes bankrupt, their property is administered by a trustee for the benefit of their creditors. Usually, assets will be sold to pay creditors. At the end of the process, almost all outstanding debts will be written off so that the debtor is no longer liable for them.

The Bill restated existing bankruptcy legislation in a manner that was easier to follow. In particular, existing provisions were simplified and re-ordered to follow the normal course of a bankruptcy. Regulations governing a form of personal insolvency known as the “protected trust deed” were consolidated into primary legislation.

Parliamentary consideration

The Delegated Powers and Law Reform Committee’s consideration focussed on whether the Bill should proceed as a consolidation bill. It also considered whether the Bill had correctly consolidated existing legislation and whether the language used was “clear, coherent and consistent”.

In consideration of these points, the Committee engaged in a substantial amount of correspondence with the Bill’s drafter. The letters are available on the Committee’s [Bankruptcy \(Scotland\) Bill webpage](#).

The Committee accepted that the Bill should proceed as a consolidation bill. Its Stage 1 Report also contained a number of recommendations in relation to accurate consolidation and improving on the language used. These were all addressed, either by amendment at Stage 2 or otherwise by the Scottish Government.