1 HMRC debts: priority on insolvency

(1) In section 386 of the Insolvency Act 1986 (preferential debts)—
   (a) in subsection (1) after “other deposits” insert “; certain HMRC debts”; 
   (b) in subsection (1B) for “or 15BB” substitute “, 15BB or 15D”.

(2) In Schedule 6 to that Act (preferential debts) after paragraph 15C insert—

“Category 9: Certain HMRC debts

15D (1) Any amount owed at the relevant date by the debtor to the Commissioners in respect of—
   (a) value added tax, or
   (b) a relevant deduction.

(2) For the purposes of sub-paragraph (1)(b) a deduction is “relevant” if—
   (a) the debtor is required, by virtue of an enactment, to make the deduction from a payment made to another person and to pay an amount to the Commissioners on account of the deduction,
   (b) the payment to the Commissioners is credited against any liabilities of the other person, and
   (c) the deduction is of a kind specified in regulations made by the Commissioners by statutory instrument.

(3) In this paragraph “the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs.

(4) Regulations under this paragraph—
   (a) may contain transitional provision;
   (b) are subject to annulment in pursuance of a resolution of the House of Commons.”

(3) In section 129(2) of the Bankruptcy (Scotland) Act 2016 (asp 21) (priority in distribution: meaning of certain expressions) in the definition of “secondary preferred debt” for “paragraph 7 or 8” substitute “any of paragraphs 7 to 8A”.

(4) In Part 1 of Schedule 3 to that Act (list of preferred debts) after paragraph 8 insert—

“Certain HMRC debts

8A (1) Any amount owed at the relevant date by the debtor to the Commissioners in respect of—
   (a) value added tax, or
   (b) a relevant deduction.

(2) For the purposes of sub-paragraph (1)(b) a deduction is “relevant” if—
   (a) the debtor is required, by virtue of an enactment, to make the deduction from a payment made to another person and to pay an amount to the Commissioners on account of the deduction,
   (b) the payment to the Commissioners is credited against any liabilities of the other person, and
(c) the deduction is of a kind specified in regulations made by the Commissioners under paragraph 15D of Schedule 6 to the Insolvency Act 1986.

(3) In this paragraph “the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs.”

(5) This section comes into force on 6 April 2020.

(6) The amendments made by this section do not apply in relation to any case where the relevant date is before 6 April 2020.