

# **BANKRUPTCY AND DEBT ADVICE (SCOTLAND) ACT 2014**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Application for sequestration***

#### ***Section 9 – Statement of undertakings***

24. Subsection (1) of this section inserts a new section 2(8) of the 1985 Act. It imposes an obligation on the trustee to provide to a debtor sequestrated on a court petition with a ‘statement of undertakings’, to be signed by the debtor. The Scottish Government intends that the statement of undertakings will make clear to the debtor that failure to sign or comply with the requirements in place under the 1985 Act as set out in the terms of the statement of undertakings could mean a delay in the debtor’s discharge from bankruptcy.
25. Subsection (2) provides that the debtor in a debtor application must give a statement of undertakings including an undertaking to pay any contribution the debtor might be required to make after a determination using the common financial tool to be provided for under new section 5D of the 1985 Act added by section 3 of the Act. This undertaking must be submitted with the application, in a form to be prescribed by regulations (under the power added by section 36 of the Act). Both forms under this section have been prescribed in Bankruptcy (Scotland) Regulations 2014<sup>1</sup>.

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<sup>1</sup> S.S.I. 2014/225, Form 1 and part of Form 14 (in Form 14 amended by regulation 2(5)(d)(xi) of S.S.I. 2015/80).