

SCHEDULE 1  
DEBTOR TO WHOM SECTION 2(2) APPLIES: APPLICATION OF ACT

*Accountant in Bankruptcy's duty to consider whether paragraph 1 should cease to have effect*

- 2 (1) This paragraph applies where paragraph 1 applies in relation to a debtor.
- (2) If AiB considers that the circumstances mentioned in any of sub-paragraphs (3) to (6) apply in relation to the debtor, AiB must consider whether paragraph 1 should cease to have effect in relation to the debtor.
- (3) The circumstances are that—
- (a) AiB becomes aware the debtor application submitted under section 2 contains an error, and
  - (b) the nature of the error is such that the debtor was not at the time of application a debtor to whom section 2(2) applies.
- (4) The circumstances are that—
- (a) AiB becomes aware that the debtor application submitted under section 2 deliberately misrepresents, or fails to state, a fact that was the case at the time of application, and
  - (b) the nature of the misrepresentation or the omission of the fact is such that the debtor was not at that time a debtor to whom section 2(2) applies.
- (5) The circumstances are that, at any time after the date on which the debtor application is made—
- (a) the total value of the debtor's assets (leaving out of account any liabilities and any assets that, under section 88(1), would not vest in a trustee) exceeds £5,000 or such other sum as may be prescribed, or
  - (b) AiB assesses the debtor, under the common financial tool, as being able to make a contribution.
- (6) The circumstances are that, at any time after the date of sequestration—
- (a) AiB is not satisfied that the debtor has co-operated with the trustee, and
  - (b) AiB considers that if paragraph 1 were to cease to have effect it would be—
    - (i) of financial benefit to the estate of the debtor, and
    - (ii) in the interests of the creditors.
- (7) The Scottish Ministers may by regulations modify this paragraph—
- (a) by modifying the circumstances in which paragraph 1 ceases to have effect,
  - (b) in consequence of any modification made under sub-paragraph (7)(a).