
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 80

**INSOLVENCY
BANKRUPTCY**

**The Bankruptcy (Miscellaneous
Amendments) (Scotland) Regulations 2015**

Made - - - - 25th February 2015
*Laid before the Scottish
Parliament* - - - - 27th February 2015
Coming into force - - 1st April 2015

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 1A(1)(b) and (5), 2(8), 5(2ZA)(a)(ii), (2D) and (6A), 6(7), 7(1)(d), 11(1), 19(2), 22(2)(a) and (6), 23(1)(a), 32(9A), 40(3B), 43A(2), 43B(1), 45(3)(a), 49(3), 51(7)(a), 54(2), 54A(2), 54C(2), 54D(2)(a) and (c), 54E(2) and (5), 69, 69A, 71C, 72(1A), 72A and 73(1) of and paragraphs 5(1) and 6 of Schedule 3 to the Bankruptcy (Scotland) Act 1985(1) and all other powers enabling them to do so.

(1) 1985 c.66. Sections 1, 1A, 1B, 1C and 1D were substituted for section 1 by the Bankruptcy (Scotland) Act 1993 (c.6) (“the 1993 Act”), section 1. Section 1A(1)(b) was amended by the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) (“the 2007 Act”), schedule 6, the Bankruptcy and Debt Advice (Scotland) Act 2014 (asp 11) (“the 2014 Act”), section 22 and schedule 3, paragraph 3 and by S.I. 1999/1820. Section 1A(5) was inserted by the 2014 Act, section 22. Section 2(8) was inserted by the 2014 Act, section 9. Section 5(2ZA) was inserted by the 2014 Act, section 5. Section 5(2D) was inserted by the 2007 Act, section 26. Section 5(6A) was substituted by the 2007 Act, schedule 1, paragraph 4 and is applied for the purposes of section 6 by section 6(8) which was amended by the 2007 Act, section 14 and the 2014 Act, schedule 3, paragraph 6. Section 7(1) was amended by the Criminal Justice (Scotland) Act 1987 (c.41), section 45, the Criminal Justice Act 1988 (c.33), Schedule 15, paragraph 108, the Drug Trafficking Act 1994 (c.37), Schedule 1, paragraph 10 and Schedule 3, the Proceeds of Crime Act 2002 (c.29), Schedule 11, paragraph 15, the 2007 Act, schedule 6, the 2014 Act, schedule 3, paragraph 7 and by S.I. 2003/2109 and S.S.I. 2011/141. Section 11(1) was amended by the 2007 Act, schedule 1, paragraph 9. Section 19 was substituted by the 1993 Act, Schedule 1, paragraph 7 and section 19(2) was amended by the 2007 Act, schedule 1, paragraph 17 and schedule 6. Section 22(2) was amended by the 2007 Act, schedule 6. Section 22(2)(a) is applied, with modifications, for the purposes of section 48 by section 48(3) which was amended by the 2007 Act, schedule 6. Section 22(6) is applied, with modifications, for the purposes of section 48 by section 48(7) which was amended by the 2007 Act, schedule 6 and the 2014 Act, schedule 3, paragraph 24. Section 23(1) was amended by the 2007 Act, schedule 6. Section 32(9A) was inserted by the 2007 Act, section 19. Section 40(3B) was inserted by the Home Owner and Debtor Protection (Scotland) Act 2010 (asp 6) (“the 2010 Act”), section 11. Section 43A was inserted by the 2007 Act, section 30 and was amended by the 2014 Act, schedule 3, paragraph 22. Section 43B was inserted by the 2014 Act, section 2. Section 45(3) was amended by the 2007 Act, schedule 6 and the 2014 Act, section 24. Section 49(3) was amended by the 2007 Act, schedule 6. Sections 54 and 54A were substituted for section 54 by the 2014 Act, section 17. Section 54C was inserted by the 2014 Act, section 7. Sections 54D and 54E were inserted by the 2014 Act, section 19. Section 69 was amended by the 2007 Act, schedule 1, paragraph 58 and schedule 6. Section 69A was inserted by section 8 of the 1993 Act. Section 71C was inserted by the 2014 Act, section 36. Section 72(1A) was inserted by the 2014 Act, schedule 3, paragraph 34(a). Section 72A was inserted by paragraph 28 of Schedule 1 to the 1993 Act. The definition of “statement of assets and liabilities” was inserted into section 73(1) by the 1993 Act, Schedule 1, paragraph 29. Section 73(1) contains a definition of “prescribed” relevant to the exercise of the statutory powers under which these Regulations are made. The functions of the Secretary of State so far as exercisable within devolved competence were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (c.46).

Citation and commencement

1. These Regulations may be cited as the Bankruptcy (Miscellaneous Amendments) (Scotland) Regulations 2015 and come into force on 1st April 2015.

Amendment of the Bankruptcy (Scotland) Regulations 2014

2.—(1) The Bankruptcy (Scotland) Regulations 2014(2) are amended in accordance with this regulation.

(2) In regulation 19 (certificate of deferral) after “section 54D(4)(b) or (6)(b)” insert “of the 1985 Act”.

(3) In regulation 24 (sequestration before 1st April 2015)—

(a) in paragraph (1)(a)(ii) for “was” substitute “is”; and

(b) after paragraph (2)(b) insert—

“(c) regulation 15 of these Regulations and Form 26(3);

(d) regulation 22 of these Regulations and Forms 29 and 30(4).”.

(4) After regulation 24 insert—

“Trust deed granted before 1st April 2015

25. These Regulations, except regulation 22 and Forms 29 and 30, have no effect as regards any trust deed granted before 1st April 2015.”.

(5) In Schedule 1 (forms)—

(a) for each form listed in the table in Schedule 1 to these Regulations substitute the Form so numbered in Schedule 1 to these Regulations;

(b) in Form 11 (application for deferral)—

(i) for “I confirm;” substitute “I confirm that”; and

(ii) for “section 3 of the Bankruptcy (Scotland) Act 1985 (as amended).” substitute “section 3 of the Bankruptcy (Scotland) Act 1985 (as amended).”;

(c) in Form 12 (trustee application for authority to resign office) for “section 54E(4) of the Bankruptcy (Scotland) Act (as amended)” substitute “section 54E(4) of the Bankruptcy (Scotland) Act 1985 (as amended).”;

(d) in Form 14 (debtor application)—

(i) in section 3.1 for “will considered” substitute “will be considered”;

(ii) in section 3.6 for “If “YES” is the Charge for Payment dates at least 15 days prior to you completing, signing and dating this application?” substitute “If “YES” is the date on which the Charge for Payment was served on you at least 15/29* (*delete as appropriate) days prior to you completing, signing and dating this application?”;

(2) [S.S.I. 2014/225](#).

(3) Form 26 (notice by trustee of proceedings to obtain authority in relation to debtor’s family home) is the form prescribed under section 40(3B) of the Bankruptcy (Scotland) Act 1985 (c.66) (“the 1985 Act”). Section 40 of the 1985 Act was amended by the Civil Partnership Act 2004 (c.33), Schedule 28, paragraph 36, the 2007 Act, schedule 1, paragraph 36 and schedule 6, the 2010 Act, section 11 and the 2014 Act, section 49.

(4) Form 29 (moratorium - notice of intention to apply) is the written notice to be given by a person under section 4A(1) of the 1985 Act. Form 30 (moratorium - notice of intention to apply (trust, partnership etc.)) is the written notice to be given by a person under section 4B(1) of the 1985 Act. Sections 4A and 4B were inserted by the 2014 Act, section 8.

- (iii) in section 3.7 for “If “YES” is the Statutory Demand dated at least 22 days prior to you completing, signing and dating this application?” substitute “If “YES” is the date on which the Statutory Demand was served on you at least 22 days prior to you completing, signing and dating this application?”;
- (iv) in section 6.5 for “compete” substitute “complete”;
- (v) in section 6.7—
 - (aa) for “From” substitute “from”; and
 - (bb) for “compete” substitute “complete”;
- (vi) at the end of section 8.6 insert on a new line-
- (vii) “Proposed frequency of subsequent payments _____”;
- (viii) in section 11.1 for “Do you, or have, you owned property in the last 5 years which is not your current residence?” substitute “Do you currently own property, or have you owned property in the last 5 years, which is not your current residence?”;
- (ix) for the first paragraph of the Money Adviser Declaration substitute—

“I am a money adviser within the meaning of the Bankruptcy (Scotland) Act 1985 (as amended). I confirm that I have provided the debtor named in section 5 of this form with advice in accordance with section 5C of that Act.”;
- (x) in the section headed “Automatic credit/HPI checks”—
 - (aa) for the heading substitute “Credit/HPI checks”;
 - (bb) for “will carry out automatic” substitute “may carry out”; and
 - (cc) “will carry out these checks in all” substitute “may carry out these checks in some”;
- (xi) in the Statement of Undertakings—
 - (aa) in undertaking 2 for “an interest in on” substitute “an interest on”;
 - (bb) in undertaking 6 for “my bankruptcy” substitute “my bankruptcy.”;
 - (cc) after undertaking 15 insert on a new line—
 - (dd) “**Note for completion** – If you are signing as executor, or entitled to be appointed as executor, on the estate of a deceased debtor, undertakings 1, 7, 8, 10, 14 and 15 do not apply. You are giving the remaining undertakings, as appropriate, in relation to the position of the deceased debtor or the deceased debtor’s estate or the position of executor on the estate of the deceased debtor.”; and
- (xii) in the Statement of Truth after “I have read and understood the warning below.” insert on a new line—
 - (aa) “**Note for completion** – If you are signing as executor, or entitled to be appointed as executor, on the estate of a deceased debtor, you are agreeing and certifying in relation to the estate of the deceased debtor being made bankrupt. In relation to the warning below, the reference to bankruptcy restrictions does not apply.”;
- (e) in Form 15 (debtor application (trust, partnership, etc.))—
 - (i) for the heading “Section 4 – Concurring Creditor” substitute “Section 4 – Concurring Creditor (if applicable)”; and
 - (ii) in section 4.4 for “petition” substitute “application”; and

(f) in Form 26 (notice by trustee of proceedings to obtain authority in relation to debtor's family home) for "40(1)(b)" substitute "40(2) or (3)".

(6) In Schedule 2 (register of insolvencies), in section E (winding up and receivership of business associations) after "Date of appointment of office holder(s)" insert on a new line "Date of termination of appointment of office holder(s)".

Amendment of the Bankruptcy (Applications and Decisions) (Scotland) Regulations 2014

3.—(1) The Bankruptcy (Applications and Decisions) (Scotland) Regulations 2014(5) are amended in accordance with this regulation.

(2) After regulation 2 insert—

"Dispensing power

2A. The Accountant may relieve any person from the consequences of any failure to comply with a provision of these Regulations that is shown to be due to mistake, oversight or other reasonable cause."

(3) In regulations 3(1) and 5(1), for "Form" substitute "form".

(4) In regulation 4(1)(h), for "bankruptcy" substitute "Bankruptcy".

(5) In regulation 5(2)(a)(iii) (procedure for first instance applications to AiB), for "able to review or appeal" substitute "able to seek review of or to appeal".

(6) In regulation 19 (reference to the sheriff: time limits)—

(a) for "refer or remit a matter to the sheriff" substitute "refer or remit a matter to the court";

(b) in paragraph (a)—

(i) for "the sheriff" the first time it occurs substitute "the court";

(ii) for "the sheriff" the second time it occurs substitute "that court"; and

(c) in paragraph (b) for "sheriff's (or the court's) disposal" substitute "court's disposal",

and in the title of Part 4 (Reference to sheriff and review by Accountant in Bankruptcy) and the heading to regulation 19, for "sheriff" substitute "court".

(7) After regulation 21, insert—

"Review proceedings: persons assisting the Accountant in Bankruptcy

21A.—(1) In relation to a review application the Accountant may take account of the views of any independent person whom the Accountant appoints for that purpose.

(2) The Accountant may disclose information held about review applications to persons appointed under paragraph (1) to be used only for the purpose specified in that paragraph."

(8) In the Schedule—

(a) for Form 4 (report of statutory meeting appointing replacement trustee) substitute the Form 4 set out in Schedule 2 to these Regulations;

(b) in Form 5 (grant of removal of trustee), for "may" substitute "must"; and

(c) in Form 6 (conversion of protected trust deed into bankruptcy: section 59A application)—

(i) in the third box below "Trustee Address:", insert—

"I consent to my appointment as Trustee

Signature of Trustee _____ Date _____”;
and

- (ii) for “EC Regulation of earlier proceedings” substitute “EC Regulation (conversion of earlier proceedings)”.

Amendment of the Bankruptcy Fees (Scotland) Regulations 2014

4. In regulation 13 (sequestrations and trust deeds before 1st April 2015) of the Bankruptcy Fees (Scotland) Regulations 2014⁽⁶⁾—

- (a) in paragraph (1)(b) for “was” substitute “is”; and
(b) for paragraph (4) substitute—

“(4) This regulation does not apply in respect of—

- (a) items 18, 20 and 21 in Part 2 in the table of fees; or
(b) the revocation of items 10, 11, 12 and 13 in Part 2 of the Table of Fees in Schedule 1 to the Bankruptcy Fees etc. (Scotland) Regulations 2012⁽⁷⁾.”.

St Andrew’s House,
Edinburgh
25th February 2015

FERGUS EWING
Authorised to sign by the Scottish Ministers

⁽⁶⁾ S.S.I. 2014/227.
⁽⁷⁾ S.S.I. 2012/118.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE 1

Regulation 2(5)(a)

Bankruptcy (Scotland) Regulations 2014 - Forms

List of Forms to be substituted

<i>Form</i>	<i>Purpose</i>
4	Statement of Assets and Liabilities Petition by creditor or trustee under a trust deed
5	Statement of Claim by Creditor
7	Debtor Certificate of Discharge (where The Accountant in Bankruptcy is not the trustee)
8	Debtor Certificate of Discharge (where The Accountant in Bankruptcy is not the trustee)
9	Debtor Certificate of Discharge (debtor to whom section 5(2ZA) applies)
10	Deferral Notice
16	Statement of Assets and Liabilities (Trusts, Partnerships etc.)
17	Form of Undertaking to act as Trustee in Sequestration on the Application of a Debtor
22	Notice of Abandonment of Heritable Property by Trustee in Sequestration where the Accountant in Bankruptcy is not the Trustee
23	Notice of Abandonment of Heritable Property where the Accountant in Bankruptcy is the Trustee
29	Moratorium – Notice of Intention to Apply

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Form 4

**Statement of Assets and Liabilities
Petition by creditor or trustee under a trust deed**

Bankruptcy (Scotland) Act 1985 (as amended)
Section 19(2)

WARNING TO THE DEBTOR

It is a criminal offence under section 19(3) of the Bankruptcy (Scotland) Act 1985 (as amended) for you, unless you can show that you had a reasonable excuse, to:

- (A) Fail to disclose any material fact in this statement.
- (B) Make a material misstatement in this statement.

On summary conviction you may be liable to a fine of up to £5,000 or to imprisonment for a maximum period of three months or to both. If you deliberately do not disclose all relevant information or if you deliberately make a false statement when completing this form, you may become subject to bankruptcy restrictions.

CERTIFICATION

	Insert name
	Address
	Town
	County
	Postcode

I have stated in this statement details of all my assets, liabilities, income and expenditure as at the date of bankruptcy* on _____

*"the date of bankruptcy" is-

- (i) the date on which the sheriff granted warrant to require you to appear before the sheriff to decide whether you should be made bankrupt; or
- (ii) where more than one such warrant was granted, the date on which the first such warrant was granted.

I certify that the information I have supplied in Form 4 is true, complete and accurate to the best of my knowledge and belief.

I have read and understood the warning above.

Signature: _____ Date: _____

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Income

Q1-3. In column 1 enter all earned income, all social security benefits, and all other income. For example, Income Support Income-based Jobseekers' Allowance, Housing Benefit, Working Tax Credits and Council Tax Benefit. If the income you receive is not detailed, please provide details on a separate page.

In column 2, enter the frequency that your income is received, for example, weekly/fortnightly/monthly/annually.

In column 3 enter the amount you receive.

In column 4 enter the name and address of your employer, benefits office or other source of income as applicable. Continue on a separate page if required.

1. Average net earnings	Frequency	Amount (£)	Name and address of employer
2. Social Security benefits	Frequency	Amount (£)	Address of benefits office
3. Any other income	Frequency	Amount (£)	Address of other source of income
Pension	_____	_____	
Annuity	_____	_____	
Grants, Rents, Trusts etc	_____	_____	

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Bank Accounts

Q4. Give details of any sums held by you in Bank or Building Society accounts, including the account number and the branch where the account is held.

Name of bank or building society	Branch	Account number	Sort code	Balance

Investments

Q5. Complete this section if you have any investments. These may be ISAs, shares, premium or other bonds, savings certificates. Details of any endowment policies or life assurance policies should also be entered.

Type of investment	Name of company	Reference number

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Non-essential possessions

Q6. List any non-essential possessions owned by you or in the course of hire purchase or a credit agreement. **Enter only non-essential items.**

Examples of essential items are the following items if used in the debtor's family home–

- Beds, bedding, household linen and curtains
- Food, cooking equipment and kitchen utensils
- Refrigerators, washing machines and microwave ovens
- Chairs, settees, tables and other furniture
- Lights, fittings and heating appliances
- Floor coverings
- Articles used for cleaning, drying, mending, or pressing clothes
- Articles used for cleaning the house
- Articles used for safety in the house
- Tools used for maintenance or repair of the house and household articles
- Computers and accessory equipment
- Radios, telephones and televisions.

Do not include any of the above items in your list.

Description	Value(£)	Subject to hire purchase / credit agreement Yes / No

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Property

Q7. List all the land and buildings in which you have an interest as an owner or tenant.

Part A

Column 1, write the addresses of any property you own, either wholly or jointly. If you are a joint or part owner, specify the share you own, for example, half, third, etc.

Column 2, write the property type which includes land, timeshares, or any other property, including business or agricultural property.

Column 3, write the name and address of any joint owners.

Column 4, say whether there is a mortgage or secured loan on the property. Details of the securities should be listed at question 9.

Part B

In columns 1 to 4, write the address, type of property, name(s) of the joint tenant(s) and the name and address of the property owner.

A. Address Wholly or jointly owned	Type of property	Name of joint owner(s)	Mortgage or secured loan Yes / No
B. Address if property rented	Type of property	Name of joint tenant	Owner of property

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Unsecured debts (specify unsecured debts due by you)

Q8. Complete a list of any unsecured debts, for example loans, credit cards, catalogue accounts, unpaid council tax, overdrafts, rent, household bills and any debts due to individuals.

You must include all the unsecured debts that you owe. If your bankruptcy is awarded, your trustee will write to each of your creditors (creditors are people you owe money to).

Note: You may be asked to provide copies of your letters and bills from your creditors.

Type of debt	Name and address of creditor	Account no / ref no	Amount owed
Total			£

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Secured debts

Q9. Complete if you have a mortgage and/or any debts secured against your home. Provide information regarding the amount currently owed to the secured lender and the date the mortgage or loan was obtained.

Name and address of mortgage company/ lender	Mortgage account no Lender reference no	Amount owed (£)	Date loan was obtained
Total amount of secured debts		£	

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Form 5

Statement of Claim by Creditor

Bankruptcy (Scotland) Act 1985 (as amended)
Sections 22(2) and 48

WARNING
It is a criminal offence

- for a creditor to produce a statement of claim, account, voucher or other evidence which is false, unless the creditor shows that the creditor neither knew nor had reason to believe that it was false; or
- for a debtor who knows or becomes aware that a creditor has made a false statement to fail to report it to their trustee within one month of acquiring such knowledge.

On conviction either creditor or debtor may be liable to a fine and/or imprisonment.

Notes

(a) *Insert name and address of debtor*

Sequestration of the estate of

(a) _____

(b) *Insert name and address of creditor*

(b) _____

(c) *Insert name and address, if applicable, of authorised person acting on behalf of the creditor*

(c) _____

(d) *Insert details of any other proceedings in which a claim has been or is being submitted in respect of the debt or part of the debt and the amount claimed*

(d) _____

(e) *Insert total amount claimed in respect of all the debts, the particulars of which are set out overleaf.*

I submit a claim of (e) £ _____ in the above sequestration and certify that particulars of the debt or debts making up that claim, which are set out overleaf, are true, complete and accurate, to the best of my knowledge and belief.

Signed _____
Creditor*/person acting on behalf of creditor

Date _____

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PARTICULARS OF EACH DEBT	
<p>Notes</p> <p>A separate set of particulars should be made out in respect of each debt.</p>	
<p>1. Describe briefly the debt, giving details of its nature, the date when it was incurred and when payment became due. Attach any documentary evidence of the debt, if available.</p>	1. Particulars of debt
<p>2. Insert total amount of the debt, showing separately the amount of principal and any interest which is due on the debt as at the date of sequestration. Interest may only be claimed if the creditor is entitled to it. Show separately the VAT on the debt and indicate whether the VAT is being claimed back from HM Revenue and Customs.</p>	2. Amount of debt
<p>3. Specify and give details of the nature of any security held in respect of the debt including—</p> <p>(a) the subjects covered and the date when it was given;</p> <p>(b) the value of the security;</p> <p>Note: The trustee may, at any time after 12 weeks from the date of sequestration, require a creditor to discharge a security or to convey or assign it to the trustee on payment of the value specified by the creditor.</p> <p>(c) whether the creditor is surrendering or undertakes to surrender the security.</p> <p>Security is defined for the purposes of the Bankruptcy (Scotland) Act 1985 as meaning "any security, heritable or moveable, or any right of lien, retention or preference".</p>	3. Security for debt
<p>4. In the case of a creditor who is a Member State liquidator, specify and give details of underlying claims in respect of which the Member State liquidator is claiming as creditor. Attach documentary evidence of debts.</p>	4. Underlying claims
<p>5. A secured creditor must in calculating the total amount of the secured creditor's claim deduct the value of any security as estimated by the secured creditor, unless the secured creditor surrenders it (see note 3(c) above).</p>	5. Total amount of the debt

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(bankruptcy ref)



Form 7

**Debtor Certificate of Discharge
(where The Accountant in Bankruptcy is not the trustee)**

Bankruptcy (Scotland) Act 1985 (as amended)
Section 54(2)

I certify that [debtor name and address]

whose estate was sequestrated on [dd/mm/yyyy], is discharged under section 54(2) of the Bankruptcy (Scotland) Act 1985 (as amended) on [dd/mm/yyyy].

Issued by The Accountant in Bankruptcy
[dd/mm/yyyy]

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(bankruptcy ref)

Debtor Certificate of Discharge
(where The Accountant in Bankruptcy is not the trustee)
Bankruptcy (Scotland) Act 1985 (as amended)
Section 54(2)

Notes

The effect of this discharge is that, subject to the exceptions noted below, the debtor shall be discharged within the United Kingdom of all debts and obligations contracted by the debtor, or for which the debtor was liable, at the date of sequestration.

(1) Exceptions in section 55(2) of the Bankruptcy (Scotland) Act 1985 (as amended):

- any liability to pay a fine or other penalty due to the Crown;
- any liability under a confiscation order made under Part 2, 3 or 4 of the Proceeds of Crime Act 2002;
- any liability to pay a fine imposed in a justice of the peace court (or a district court);
- any liability under a compensation order within the meaning of section 249 of the Criminal Procedure (Scotland) Act 1995;
- any liability to forfeiture of a sum of money deposited in court under section 24(6) of the Criminal procedure (Scotland) Act 1995;
- any liability incurred by reason of fraud or breach of trust;
- any obligation to pay aliment or any sum of an alimentary nature;
- any periodical allowance payable on divorce;
- child support maintenance;
- any obligation imposed on the debtor by section 64 (debtor to co-operate with trustee) of the Bankruptcy (Scotland) Act 1985 (as amended).

(2) The discharge of the debtor does not affect any right of a secured creditor to enforce a security.

(3) The discharge of the debtor does not affect liability to repay a student loan.

(4) The discharge of the debtor does not affect:

- any continuing obligation of the debtor to pay to the trustee any debtor contribution under a Debtor Contribution Order as fixed by the Accountant in Bankruptcy or varied by the trustee or the court;
- any Bankruptcy Restrictions Order to which the debtor is subject.

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(bankruptcy ref)



Form 8

Debtor certificate of discharge
(where the Accountant in Bankruptcy is the trustee)
Bankruptcy (Scotland) Act 1985 (as amended)
Section 54A(2)

I certify that [debtor name and address]

Whose estate was declared bankrupt on [dd/mm/yyyy], was discharged under or by virtue of section 54A(2) of the Bankruptcy (Scotland) Act 1985 (as amended) on [dd/mm/yyyy].

Accountant in Bankruptcy
[dd/mm/yyyy]

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(bankruptcy ref)

Debtor certificate of discharge
(where the Accountant in Bankruptcy is the trustee)
Bankruptcy (Scotland) Act 1985 (as amended)
Section 54A(2)

Notes

The effect of this discharge is that, subject to the exceptions noted below, the debtor shall be discharged within the United Kingdom of all debts and obligations contracted by the debtor, or for which the debtor was liable, at the date of sequestration.

(1) Exceptions in section 55(2) of the Bankruptcy (Scotland) Act 1985 (as amended):

- any liability to pay a fine or other penalty due to the Crown;
- any liability under a confiscation order made under Part 2, 3 or 4 of the Proceeds of Crime Act 2002;
- any liability to pay a fine imposed in a district court;
- any liability under a compensation order within the meaning of section 249 of the Criminal Procedure (Scotland) Act 1995;
- any liability to forfeiture of a sum of money deposited in court under section 1(3) of the Bail etc. (Scotland) Act 1980;
- any liability incurred by reason of fraud or breach of trust;
- any obligation to pay aliment or any sum of an alimentary nature;
- any periodical allowance payable on divorce;
- child support maintenance;
- any obligation imposed on the debtor by section 64 (debtor to co-operate with trustee) of the Bankruptcy (Scotland) Act 1985 (as amended).

(2) The discharge of the debtor does not affect any right of a secured creditor to enforce a security.

(3) The discharge of the debtor does not affect liability to repay a student loan.

(4) The discharge of the debtor does not affect:

- any continuing obligation of the debtor to pay to the trustee any debtor contribution under a Debtor Contribution Order as fixed by the Accountant in Bankruptcy or varied by the trustee or the court;
- any Bankruptcy Restrictions Order to which the debtor is subject.

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(bankruptcy ref)



Form 9

**Debtor Certificate of Discharge
(debtor to whom section 5(2ZA) applies)**

Bankruptcy (Scotland) Act 1985 (as amended)
Section 54C(2)

I certify that [debtor name and address]

whose estate was sequestrated on [dd/mm/yyyy], is discharged under section 54C(1) of the Bankruptcy (Scotland) Act 1985 (as amended) on [dd/mm/yyyy].

Issued by The Accountant in Bankruptcy
[dd/mm/yyyy]

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(bankruptcy ref)

Debtor Certificate of Discharge
(debtor to whom section 5(2ZA) applies)
Bankruptcy (Scotland) Act 1985 (as amended)
Section 54C(2)

Notes

The effect of this discharge is that, subject to the exceptions noted below, the debtor shall be discharged within the United Kingdom of all debts and obligations contracted by the debtor, or for which the debtor was liable, at the date of sequestration.

(1) Exceptions in section 55(2) of the Bankruptcy (Scotland) Act 1985 (as amended):

- any liability to pay a fine or other penalty due to the Crown;
- any liability under a confiscation order made under Part 2, 3 or 4 of the Proceeds of Crime Act 2002;
- any liability to pay a fine imposed in a justice of the peace court (or a district court);
- any liability under a compensation order within the meaning of section 249 of the Criminal Procedure (Scotland) Act 1995;
- any liability to forfeiture of a sum of money deposited in court under section 24(6) of the Criminal procedure (Scotland) Act 1995;
- any liability incurred by reason of fraud or breach of trust;
- any obligation to pay aliment or any sum of an alimentary nature;
- any periodical allowance payable on divorce;
- child support maintenance;
- any obligation imposed on the debtor by section 64 (debtor to co-operate with trustee) of the Bankruptcy (Scotland) Act 1985 (as amended).

(2) The discharge of the debtor does not affect any right of a secured creditor to enforce a security.

(3) The discharge of the debtor does not affect liability to repay a student loan.

(4) The discharge of the debtor does not affect any Bankruptcy Restrictions Order to which the debtor is subject.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(bankruptcy ref)

Form 10

Deferral Notice

Bankruptcy (Scotland) Act 1985 (as amended)
Section 54D(2)(a)

I,	Insert insolvency practitioner's name / Accountant in Bankruptcy *
	Insert business address
	Town
	County
	Postcode

was appointed as trustee in the sequestration of

	Insert debtor's name
	Insert debtor's address
	Town
	County
	Postcode

("the debtor")

by

* the Accountant in Bankruptcy

* the Sheriff at _____ (insert name of Court)

on _____ (insert date of appointment).

I confirm that

(a) having made reasonable enquiries, I am unable to ascertain the whereabouts of the debtor; and

(b) as a result, I am unable to carry out my functions as trustee in accordance with section 3 of the Bankruptcy (Scotland) Act 1985 (as amended).

Signature of trustee _____ Date _____

* delete as appropriate

RECIPIENTS OF THIS FORM: PLEASE READ THE NOTES WHICH FOLLOW

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(bankruptcy ref)

Notes

This deferral notice is made in pursuance of section 54D(1)(a) of the Bankruptcy (Scotland) Act 1985 (as amended) ("the 1985 Act").

A copy of this deferral notice must also be given to every creditor shown in the trustee (see section 54D(2)(b) of the 1985 Act).

Where

- The Accountant in Bankruptcy is not the trustee: the trustee must, as well as sending this deferral notice to the last known address of the debtor, and giving it to every creditor known to the trustee, apply in the prescribed form (Form 11 - Application for Deferral) to the Accountant in Bankruptcy for a deferral (see section 54D(2)(a) of the 1985 Act). Any interested person may make representations to the Accountant in Bankruptcy before the expiry of the period of 14 days beginning with the day on which the application for deferral is made.

- the Accountant in Bankruptcy is the trustee and has given this deferral notice under section 54D(2)(b): any interested person may make representations to the Accountant in Bankruptcy before the expiry of the period of 14 days beginning with the day on which this deferral notice is given.

In either case the Accountant in Bankruptcy must take such representations into account in deciding whether to issue a certificate deferring indefinitely the discharge of the debtor.

If the Accountant in Bankruptcy is satisfied that...

- where the Accountant in Bankruptcy is not the trustee, the trustee is unable to ascertain the whereabouts of the debtor;
- it would not be reasonably practicable for the trustee to continue to search for the debtor;

the Accountant in Bankruptcy must issue a certificate deferring indefinitely the discharge of the debtor.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Form 6

**Statement of Assets and Liabilities
(Trusts, Partnerships etc.)**

Bankruptcy (Scotland) Act 1985 (as amended)
Section 6(6) (and section 5(6A) as applied by that section)

WARNING

You may be committing a criminal offence if you deliberately do not disclose all relevant information or if you deliberately make a false statement when completing this form.

Name of the entity _____

Address _____

Town _____

County _____

Postcode _____

Contact name _____

Contact address _____

Town _____

County _____

Postcode _____

Daytime contact number _____

Evening contact number _____

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

The information on this page will help you complete the next page.

Please complete this form using **BLACK INK** and **CAPITAL LETTERS**.

Indicate if the entity receives an income by ticking the relevant box.

If you answer "YES", complete the table giving details of any income the entity receives, grants, lottery, money from trusts etc.

Enter the address from where this income originates, the frequency of the payments such as weekly, monthly, fortnightly etc, and the amount the entity receives.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Form 16 - Statement of Assets and Liabilities

Is the entity currently receiving any income? YES NO

If "YES" please enter details below of any income received.

Type of income	Name & address of income source	Frequency	Gross income (£)

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

The information on this page will help you complete the next page.

Please complete this form using **BLACK INK** and **CAPITAL LETTERS**.

Indicate if you are a licensee (licence holder) under the licensing legislation, the Licensing (Scotland) Act 2005. This includes a premises or personal licence. You should select "YES" if you are involved in the licensed trade for example, if you own a pub and there is a tenant who owns a licence.

Indicate if the entity owns a motor vehicle by ticking the relevant box. 'Motor vehicle' includes: car, van, motorbike, moped and truck.

If you select 'YES' then complete the table giving details of the make and model of the vehicle(s), the current mileage, the registration number and the estimated value. Please also give details of the hire purchase or finance company if applicable.

Provide details of all motor vehicles owned by the entity.

You must enclose a copy of the hire purchase, finance or credit agreement when submitting this application.

Provide details of what the motor vehicle is used for.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Form 16 - Statement of Assets and Liabilities

Do you currently hold a premises or personal licence under the Licensing (Scotland) Act 2005 or are you involved in licenced trading? YES NO

Does the entity own a motor vehicle? YES NO

Provide details of all the motor vehicles owned by the entity.

Make and model	Current mileage	Registration No	Estimated value (£)	HP or finance company (if applicable)

You **MUST** enclose a copy of any finance agreement with this form.

Please provide details below of what the vehicle(s) are used for.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

The information on this page will help you complete the next page.

Please complete this form using **BLACK INK** and **CAPITAL LETTERS**.

Indicate if the entity has any other possessions, other than the motor vehicle, which are subject to hire purchase or credit agreement by ticking the relevant box.

If you select 'YES' then complete the table giving details of the hire purchase or credit company, a description of the item, the date purchased, the term of the agreement and the estimated value of the item.

Indicate if the entity has any possessions which are not subject to a hire purchase or credit agreement by ticking the relevant box. Items to consider are: satellite equipment, caravans, boats, video recording equipment, tools, fixtures and fittings, electrical goods, paintings, sports equipment etc.

If you have selected 'YES' then complete the table giving a description of the item, date the item was purchased and an estimated value.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Form 16 - Statement of Assets and Liabilities

Are any of the entity's possessions, other than the motor vehicle, subject to hire purchase or credit agreement? YES NO

If "YES" enter details of these possessions and the agreement below.

Hire purchase or finance company	Possession description	Date purchased	Term of agreement	Estimated value (£)

Does the entity have any possessions which are not subject to a hire purchase or credit agreement? YES NO

If "YES" enter details of the item(s) below.

Possession description	Date purchased	Estimated value (£)

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

The information on this page will help you complete the next page.

Please complete this form using **BLACK INK** and **CAPITAL LETTERS**.

Indicate if the entity has a bank or building society account by ticking the relevant box.

If you have selected 'YES' then complete the table.

Enter the name and address of the bank or building society where the account is held.

Enter the name of the account.

Enter the account number.

Enter the sort code.

Enter the current balance of the account.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Form 16 - Statement of Assets and Liabilities

Does the entity have a bank or building society account(s)? YES NO

If "YES" please give details of the account(s) below.

Name & address of bank or building society	Account name	Account number	Sort code	Balance (£)

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

The information on this page will help you complete the next page.

Please complete this form using **BLACK INK** and **CAPITAL LETTERS**.

Indicate if the entity has a post office or credit union account by ticking the relevant box.

If you have selected "YES" then complete the table.

Enter the name and address of the post office or credit union where the account is held.

Enter the name of the account.

Enter the account number.

Enter the sort code.

Enter the current balance of the account.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Form 16 - Statement of Assets and Liabilities

Does the entity have a post office, credit union or other type of account? YES NO

If "YES" please give details of the account(s) below.

Name & address of post office/credit union etc	Account name	Account number	Sort code	Balance (£)

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

The information on this page will help you complete the next page.

Please complete this form using **BLACK INK** and **CAPITAL LETTERS**.

Indicate if the entity has any assurance policies, endowment policies or saving plans by ticking the relevant box.

If you have selected 'YES' then complete the table.

Enter the type of policy or plan.

Enter the name and address of the company the policy/plan is with.

Enter the reference number for the policy/plan.

Enter the sum assured.

Enter the estimated surrender value of the policy/plan.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Form 16 - Statement of Assets and Liabilities

Does the entity have any assurance policies, endowment policies or saving plans?

YES NO

If "YES" please give details of the account(s) below.

Type of policy/plan	Name & address of company	Reference number	Sum assured	Estimated surrender value (£)

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

The information on this page will help you complete the next page.

Please complete this form using **BLACK INK** and **CAPITAL LETTERS**.

Indicate if the entity has any investments such as stocks and shares, bonds, savings accounts or premium bonds by ticking the relevant box.

If you have selected 'YES' then complete the table.

Enter the type of investment.

Enter the name and address of the relevant company.

Enter the investment reference number.

Enter the estimated value.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Form 16 - Statement of Assets and Liabilities

Does the entity have any investments, such as stocks, shares, bonds, saving certificate or Premium Bonds? YES NO

If "YES" please enter details of the policies and savings plans below.

Type of Investment	Name & address of company	Reference number	Value (£)

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

The information on this page will help you complete the next page.

Please complete this form using **BLACK INK** and **CAPITAL LETTERS**.

Indicate if the entity rents the property it currently does business from by ticking the relevant box.

If you have selected 'YES' then complete the landlord and rental sections.

Enter the name of the landlord/property owner.

Enter the landlord's/property owner's address. Please note there are separate lines available for town and postcode.

Enter the name of the tenant(s) as they appear on the rental/tenancy agreement.

Enter the date the rental/tenancy agreement was signed.

Give any additional information you feel relevant regarding the rental of the property in the text box provided.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Form 16 - Statement of Assets and Liabilities

Does the entity rent the property where it does business from? YES NO

If you have answered "YES" above please complete the landlord and rental section below.

Landlord/Property Owner Details

Name

Address

Town

Postcode

Rental/Tenancy Agreement Details

Name(s) of tenancy/rental agreement

Date tenancy/rental agreement was signed

You must submit your rental or tenancy agreement or letter from the landlord with this form.

Any additional information regarding the rental of the property.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

The information on this page will help you complete the next page.

Please complete this form using **BLACK INK** and **CAPITAL LETTERS**.

Indicate if the entity owns the property where it currently does business from by ticking the relevant box.

If you have selected 'YES' then please complete the tables.

Enter the value of the property.

Enter the current value of the mortgage outstanding.

Enter the value of any secured loan against the property outstanding.

Please indicate if the property is jointly owned by putting 'Yes' or 'No' in the end column.

If the property is jointly owned please provide the name and address of the other owner(s) in the box provided.

Enter the name and address of the mortgage/secured loan lender.

Enter the mortgage/account reference number.

Enter the date the mortgage/loan was obtained.

Enter the total amount originally borrowed.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Form 16 - Statement of Assets and Liabilities

Does the entity own the property where it does business from? YES NO

If you have answered "YES" above please complete the section below.

Total value	Mortgage outstanding	Secured loan outstanding	Jointly owned (Yes/No)
£	£	£	

If the property listed above is jointly owned then please provide the name, and if different, the address of the joint owner(s) in the box below.

Mortgage/Secured loan information

Name and address of lender	Mortgage account number/lender ref number	Date loan was obtained	Total amount originally borrowed
<u>Mortgage</u>			
<u>Secured loan</u>			

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

The information on this page will help you complete the next page.

Please complete this form using **BLACK INK** and **CAPITAL LETTERS**.

State if the entity, whether wholly or jointly, owns any other property within Scotland or elsewhere by ticking the relevant box.

If you have selected 'YES' then please provide details of the property owned.

Enter the address of the property.

Enter the date the property was purchased.

If the property is jointly owned then please provide the name and address of the joint owner(s) in the box provided.

Enter the name and address of the mortgage/secured loan lender.

Enter the mortgage/account reference number.

Enter the date the mortgage/loan was obtained.

Enter the total amount originally borrowed.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Form 16 - Statement of Assets and Liabilities

Does the entity own, either wholly or jointly, any other property within Scotland or elsewhere? YES NO

If yes please provide details and address(es) of the properties.

Property address	Date property was bought

If the property listed above is jointly owned then please provide the name, and if different, the address of the joint owner(s) in the box below.

Mortgage/Secured loan information

Name and address of lender	Mortgage account number/lender ref number	Date loan was obtained	Total amount originally borrowed
<u>Mortgage</u>			
<u>Secured Loan</u>			

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

The information on this page will help you complete the next page.

Please complete this form using **BLACK INK** and **CAPITAL LETTERS**.

Indicate if the entity has previously owned property or land within Scotland or elsewhere in the last 5 years by ticking the relevant box.

If you have selected 'YES' then please enter details of the property or land in the table provided.

Enter the property/land address.

Enter the date the property/land was bought.

Enter the date the property/land was sold.

If the property/land listed was jointly owned then please provide the name and address of the joint owner(s) in the box provided.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Form 16 - Statement of Assets and Liabilities

Has the entity previously owned any property or land within Scotland or elsewhere in the last 5 years? YES NO

If "YES" please give details below

Address	Date property or land was bought	Date property or land was sold

If the property or land listed above was jointly owned then please provide the name, and if different, the address of the joint owner(s) in the box below.

--

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

The information on this page will help you complete the next page.

Please complete this form using **BLACK INK** and **CAPITAL LETTERS**.

Enter the type of debt (eg. credit card, loan etc).

Enter the name and address of the creditor.

Enter the account/reference number relating to the debt.

Enter the approximate date the debt was obtained.

Enter the amount owed at present.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Form 16 - Statement of Assets and Liabilities

Please provide details of all debts using the table below. You may wish to continue on a separate page if necessary.

Type of debt	Name/address of creditor	Account/reference number	Approximate date debt was obtained	Amount owed (£)

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

The information on this page will help you complete the next page.

Please complete this form using **BLACK INK** and **CAPITAL LETTERS**.

Enter the type of debt (eg. credit card, loan etc.)

Enter the name and address of the creditor.

Enter the account/reference number relating to the debt.

Enter the approximate date the debt was obtained.

Enter the amount owed at present.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Form 16 - Statement of Assets and Liabilities

Type of debt	Name/address of creditor	Account/reference number	Approximate date debt was obtained	Amount owed (£)

Total Debt Level £ _____

NOW PLEASE SIGN THIS FORM

I certify that all the information supplied in this application is true, complete and accurate to the best of my knowledge and belief.

Signed _____

Print _____

Date _____

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Form 17

**Form of Undertaking to act as Trustee in Sequestration
on the Application of a Debtor**

Bankruptcy (Scotland) Act 1985 (as amended)
Section 2(1A)(c) and (3)(c)

This form should be completed by a qualified Insolvency Practitioner if:

- 1) a debtor applies for an award of sequestration under section 5 or 6 of the Bankruptcy (Scotland) Act 1985 (as amended),
- 2) the debtor nominated the Insolvency Practitioner to act as the trustee in the sequestration, and
- 3) the Insolvency Practitioner undertakes to so act.

Undertaking

I,	Insert Insolvency Practitioner's name
	Insert business address
	Town
	County
	Postcode

hold the necessary authorisation to act as an insolvency practitioner under Part 13 (insolvency practitioners and their qualification) of the Insolvency Act 1986 to enable me to act as a trustee in sequestration under the Bankruptcy (Scotland) Act 1985 (as amended).

Authorising professional body (or other authority)

I undertake, if appointed by the Accountant in Bankruptcy to do so, to act as the trustee in the sequestration of

	Insert debtor's name
	Insert debtor's address
	Town
	County
	Postcode

Signed _____ Date _____
(Insolvency Practitioner)

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Form 22

**Notice of Abandonment of Heritable Property by Trustee in Sequestration
where the Accountant in Bankruptcy is not the Trustee**

Bankruptcy (Scotland) Act 1985
Section 32(9A)

Notice of Abandonment

	Insert insolvency practitioner's full name
	Insert business address
	Town
	County
	Postcode

was appointed trustee in the sequestration of

	Insert debtor's full name
	Insert debtor's address
	Town
	County
	Postcode

by

* the Accountant in Bankruptcy

* the Sheriff at _____ (insert name of Court)

on _____ (insert date of appointment).

The award of sequestration was recorded in the Register of Inhibitions on _____ (insert date).

* I am a replacement trustee having been appointed by _____
on the above date. (see note 3)

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

The trustee certifies—

1. That the debtor's sequestrated estate included the debtor's interest in the heritable property known as and forming (and hereafter referred to as the property)

_____	Insert address of property

_____	Town
_____	County
_____	Postcode
_____	Description of property (see note 4)
_____	Land Register title number (see note 4)

to which the debtor first acquired right by virtue of title

*registered in the Land Register of Scotland

*recorded in the Division of the General Register of Sasines for the County of _____

on _____ (insert date when subjects were registered, see note 4)

and the trustee became vested in the debtor's share and interest therein.

2. That no disposition or other conveyance by the trustee or otherwise conveying the debtor's share and interest or former interest in the property has been executed by the trustee or delivered to the debtor

3. That the trustee by execution of these presents confirms that the trustee has abandoned the property to the debtor and has renounced and hereby renounces and abandons any claim to the debtor's share and interest or former share or interest in and to the property.

*3A. That the property has been abandoned in consideration of a payment of £ _____ (insert amount if appropriate) which has been made to the sequestrated estate (see note 5).

4. That no statement herein affects the trustee's right to funds received by the debtor prior to the debtor's discharge under Section 54 of the Bankruptcy (Scotland) Act 1985.

5. That the trustee consents to registration of these presents for publication and preservation.

Signed _____ (trustee)

Date _____

* delete as appropriate

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Notes

1. This form shall be used by the trustee in sequestration (where the trustee is not the Accountant in Bankruptcy) to notify a debtor that any heritable property which vests in the trustee has been abandoned to the debtor.
2. The trustee in sequestration shall send a certified copy of this form to the Keeper of the Registers of Scotland to be recorded in the register of prohibitions. The certificate should be signed by the trustee and added at the foot of the last page of the copy. The certificate should state that it is a true copy. A copy should then be sent to the debtor forthwith.
3. Where the trustee signing this form is a replacement trustee (rather than the original trustee) the trustee must narrate details of how the trustee was appointed.
4. A description sufficient to identify the extent of and title to the property is required. If the property is held on a title recorded in the General Register of Sasines, a description in conformity with schedule D or J to the Conveyancing (Scotland) Act 1924 may be used. If the property is registered in the Land Register of Scotland, the title number should be inserted.
5. Paragraph 3A should be deleted if no payment was received in consideration of the subjects.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Form 23

Notice of Abandonment of Heritable Property where the Accountant in Bankruptcy is the Trustee in Sequestration

Bankruptcy (Scotland) Act 1985
section 32(9A)

Notice of Abandonment

	Insert debtor's full name
	Insert debtor's address
	Town
	County
	postcode

was sequestrated on _____ (insert date of sequestration) by

* the Accountant in Bankruptcy, and the Accountant in Bankruptcy was deemed to be appointed the trustee in the sequestration

* the Sheriff at _____ (insert name of Court), and the Accountant in Bankruptcy was appointed to be the trustee in the sequestration

on _____ (insert date of appointment).

The award of sequestration was recorded in the Register of Inhibitions on _____ (insert date)

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

The Accountant in Bankruptcy certifies—

1. That the debtor's sequestrated estate included the debtor's interest in the heritable property known as and forming (and hereafter referred to as the property)

	Insert address of property
	Town
	County
	Postcode
	Description of property (see note 3)
	Land Register title number (see note 3)

to which the debtor first acquired right by virtue of title

*registered in the Land Register of Scotland

*recorded in the Division of the General Register of Sasines for the County of _____

on _____ (insert date when subjects were registered, see note 3)

and the trustee became vested in the debtor's share and interest therein.

2. That no disposition or other conveyance by the trustee or otherwise conveying the debtor's share and interest or former interest in the property has been executed by the trustee or delivered to the debtor.

3. That the trustee by execution of these presents confirms that the trustee has abandoned the property to the debtor and has renounced and hereby renounces and abandons any claim to the debtor's share and interest or former share or interest in and to the property.

*3A. That the property has been abandoned in consideration of a payment of £ _____ (insert amount if appropriate) which has been made to the sequestrated estate (see note 4).

4. That no statement herein affects the trustee's right to funds received by the debtor prior to the debtor's discharge under Section 54A of the Bankruptcy (Scotland) Act 1985.

5. That the trustee consents to registration of these presents for publication and preservation.

Signed _____ (insert name)

*Accountant in Bankruptcy/Depute Accountant/Authorised Delegate of the Accountant

Date _____ (insert date)

*delete as appropriate

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Notes

1. This form shall be used by the Accountant in Bankruptcy where appointed or deemed to have been appointed as trustee in sequestration under section 2(1B) or (2) of the Bankruptcy (Scotland) Act 1985, to notify a debtor that any heritable property which vests in the trustee has been abandoned to the debtor.
2. The Accountant in Bankruptcy shall send a certified copy of this form to the Keeper of the Registers of Scotland to be recorded in the register of inhibitions. Except where the information set out in this form is transmitted to the Keeper of the Registers of Scotland in an approved electronic format, this certificate must be marked by an appropriate official stamp. The certificate should be signed and the status of the certifying officer must be specified. The certificate should be added to the foot of the last page of the copy. The certificate should state that it is a true copy and the date on which the notice was given to the debtor.
3. A description sufficient to identify the extent of and title to the property is required. If the property is held on a title recorded in the General Register of Sasines, a description in conformity with schedule D or J to the Conveyancing (Scotland) Act 1924 may be used. If the property is registered in the Land Register of Scotland, the title number should be inserted.
4. Paragraph 3A should be deleted if no payment was received in consideration of the subjects.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.



Form 29

Moratorium – Notice of Intention to Apply

Bankruptcy (Scotland) Act 1985 (as amended)
Section 4A(1)

*I/We,	Insert full name(s)
	Previous names (if applicable)
(see note 1)	
as executor(s), or person(s) entitled to be appointed executor(s), on the estate of	Enter name of deceased (if applicable)
(see note 2)	
	Previous names of deceased (if applicable)
(see note 2)	
on behalf of	Enter name of entity (if applicable) and type of legal person
(see note 3)	
	Address
(see note 4)	
	Town
(see note 4)	
	Postcode
(see note 4)	
	Date of birth
(see note 5)	

give notice, in accordance with section 4A(1) of the Bankruptcy (Scotland) Act 1985 (as amended), of intention to either:

- a. make a debtor application for sequestration under section 5 of the Bankruptcy (Scotland) Act 1985 (as amended); or
- b. seek to fulfil the conditions required in order for a trust deed granted by or on behalf of _____ (see note 6) to be granted the status of protected trust deed; or

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- c. apply for the approval of a debt payment programme in accordance with section 2 of the Debt Arrangement and Attachment (Scotland) Act 2002 (as amended).

*If we have: The above entity has not given notice under section 4A(1) of the Bankruptcy (Scotland) Act 1985 (as amended) in the past 12 months.

*If we accept that, in accordance with section 4A of the Bankruptcy (Scotland) Act 1985 (as amended), the Accountant in Bankruptcy will enter the name and address information provided in this form in the public Register of Insolvencies and the public CAS Register.

Signed _____

Print name _____

Date _____

*delete as appropriate

Notes for completion

(1) Complete where you are filling in Form 29 in your own right. Otherwise leave blank.

(2) Complete where you are filling in Form 29 in your capacity as executor, or person entitled to be appointed executor, on the estate of a deceased individual. Otherwise leave blank.

(3) Complete where you are filling in Form 29 on behalf of an entity (eg partnership etc.) which wishes to give notice of its intention to either seek to fulfil the conditions for a trust deed to be a protected trust deed or to apply for the approval of a debt payment programme – see, in particular, section 4A(1)(b) and (c) of the Bankruptcy (Scotland) Act 1985 (as amended). For “type of legal person” indicate if the person (i.e. the entity) giving notice is a partnership, limited partnership, trust, corporate body (other than a company, Limited Liability Partnership or other body which cannot be subject to a protected trust deed or debt payment programme under the Debt Arrangement Scheme) or unincorporated body of persons. Otherwise leave blank.

Form 3D is the form of written notice for the purposes of section 4B of the Bankruptcy (Scotland) Act 1985 (as amended) for use where an entity wishes to give notice of its intention to make a debtor application for sequestration under section 6 of the Bankruptcy (Scotland) Act 1985 (as amended).

(4) Complete to provide:

- your own address, where you are filling in Form 29 in your own right,
- the last address of the deceased, where you are filling in Form 29 in your capacity as executor, or person entitled to be appointed executor, on the estate of a deceased individual, or
- the entity's address, where you are filling in Form 29 on behalf of an entity.

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(5) Complete to provide:

- your own date of birth, where you are filling in Form 29 in your own right, or
- the deceased's date of birth, where you are filling in Form 29 in your capacity as executor, or person entitled to be appointed executor, on the estate of a deceased individual.

If you are filling in Form 29 on behalf of an entity, leave blank.

(6) If applicable, enter the person who granted the trust deed/on whose behalf the trust deed was granted.

Note that accurate information must be provided for the protection of the moratorium to apply.

SCHEDULE 2

Regulation 3(8)(a)

Bankruptcy (Applications and Decisions) (Scotland) Regulations 2014 - Form 4

FORM 4

Report of statutory meeting appointing replacement trustee: section 25(2)(a)

Form of Report to the Accountant in Bankruptcy
Bankruptcy (Scotland) Act 1985 (as amended)
Section 25(2)(a)

**Report of the statutory meeting: appointment of replacement trustee in the
bankruptcy of
(insert debtor name and address)**

- I. (insert trustee name and address), as trustee in the above bankruptcy reports to the Accountant in Bankruptcy that a statutory meeting was called in accordance with the provisions of section 21A of the Bankruptcy (Scotland) Act 1985 (as amended).
- II. The meeting was attended by (insert number of creditors in attendance) creditors or their representatives. Those in attendance were advised of their right to elect a trustee and commissioners.
- III. The meeting duly elected (insert the name of the replacement trustee) to be the replacement trustee.
- IV. A copy of the record of the meeting and of the trustee's statement of the debtor's affairs are attached.

Signature of trustee _____ Date _____

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make miscellaneous amendments to the Bankruptcy (Scotland) Regulations 2014 (“the Bankruptcy Regulations”), the Bankruptcy (Applications and Decisions) (Scotland) Regulations 2014 (“the Applications and Decisions Regulations”) and the Bankruptcy Fees

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(Scotland) Regulations 2014 (“the Fees Regulations”). These form part of the measures to implement the Bankruptcy and Debt Advice (Scotland) Act 2014 ([asp 11](#)) and come into force on 1st April 2015.

Regulation 24 (sequestration before 1st April 2015) of the Bankruptcy Regulations provides that those Regulations do not apply to sequestrations where a creditor petition for sequestration is presented to court or a debtor application for sequestration is received by the Accountant in Bankruptcy (“AIB”) before 1st April 2015, subject to exceptions. Regulation 2(3) of these Regulations adjusts these provisions to make the drafting of regulation 24(1)(a)(ii) consistent with regulation 24(1)(a)(i) to avoid any doubt that a different effect was intended. It also adds regulation 15 and Form 26 (notice by trustee of proceedings to obtain authority in relation to debtor’s family home) and regulation 22 (moratorium on diligence: notice of intention to apply) of the Bankruptcy Regulations to the exceptions to regulation 24.

Regulation 2(4) inserts a new regulation 25 into the Bankruptcy Regulations to provide that those Regulations do not, except for regulation 22 (moratorium on diligence: notice of intention to apply), have effect as regards any trust deed granted before 1st April 2015.

Regulation 2(5) makes minor corrections and amendments to Forms in Schedule 1 to the Bankruptcy Regulations. In particular it adapts Form 29 (moratorium – notice of intention to apply) to apply more clearly to executors and entities.

Regulation 2(6) adds an entry to section E (winding up and receivership of business associations) of Schedule 2 (register of insolvencies) to the Bankruptcy Regulations, this entry having been omitted in error.

Regulation 3(2) inserts a new regulation 2A of the Applications and Decisions Regulations to allow AIB to relieve parties of failure to comply with those Regulations (but not provisions of the Bankruptcy (Scotland) Act 1985 (“the 1985 Act”) as amended).

Regulation 3(6) amends regulation 19 of the Applications and Decisions Regulations which allows extension or waiver of statutory time limits following reference by AIB to the sheriff. That provision is amended to apply also to any reference by AIB to the Court of Session for directions in replacing a trustee in sequestrations across different sheriffdoms under section 28B(5) and (6)(a) of the 1985 Act as amended.

Regulation 3(7) inserts a new regulation 21A of the Applications and Decisions Regulations to allow AIB to appoint independent persons, including those with relevant expertise, to assist AIB in relation to review applications.

Regulation 3(8)(a) and Schedule 2 replace Form 4 of the Applications and Decisions Regulations to clarify when it applies and add the name of the replacement trustee.

Regulation 4 amends savings arrangements for the Fees Regulations. The drafting of regulation 13(1)(b) is made consistent with regulation 13(1)(a) to avoid any doubt that a different effect was intended. A change is also made so the revocation of fees for certificates of debtor discharge, certified copies of entries in the register of insolvencies, and certifying other documents and copies of documents, applies to sequestrations and trust deeds begun before 1st April 2015 (see regulations 13 and 14 of the Fees Regulations).

The Regulations also make other minor corrections and amendments.