
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 5

**INSOLVENCY
BANKRUPTCY**

The Bankruptcy Fees (Scotland) Amendment Regulations 2008

| | | |
|--|---------|--------------------------|
| <i>Made</i> | - - - - | <i>10th January 2008</i> |
| <i>Laid before the Scottish Parliament</i> | - - - - | <i>10th January 2008</i> |
| <i>Coming into force</i> | - - | <i>1st February 2008</i> |

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 69A, 72 and 73(1) of the Bankruptcy (Scotland) Act 1985(1) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Bankruptcy Fees (Scotland) Amendment Regulations 2008 and come into force on 1st February 2008.

Amendment of the Bankruptcy Fees (Scotland) Regulations 1993

2. In the Bankruptcy Fees (Scotland) Regulations 1993(2)–
- (a) in regulation 2 (interpretation), after the definition of “expenses of realisation”, insert–
““non-profit-making body” means a body which is not organised for the primary purpose of making a profit;”; and
 - (b) for the Schedule to those Regulations (table of fees) substitute the Schedule set out in the Schedule to these Regulations.

Revocations

3. Regulation 4 of the Bankruptcy Fees (Scotland) Amendment Regulations 1999(3) and regulation 3 of the Bankruptcy Fees (Scotland) Amendment Regulations 2007(4) are revoked.

(1) 1985 c. 66; section 69A was inserted by section 8 of the Bankruptcy (Scotland) Act 1993 (c. 6) and section 73(1) was amended by paragraph 29 of Schedule 1 to that Act, and contains a definition of “prescribed” that is relevant to the exercise of the statutory powers under which these Regulations are made. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(2) S.I.1993/486, as amended by S.I. 1999/752 and S.S.I. 2007/220.

(3) S.I. 1999/752.

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St Andrew's House,
Edinburgh
10th January 2008

FERGUS EWING
Authorised to sign by the Scottish Ministers

SCHEDULE

Regulation 2

“SCHEDULE

Regulations 3 and 6

TABLE OF FEES

PART I

| <i>Column 1 (Functions)</i> | <i>Column 2 (Rates)</i> | <i>Column 3 (Former Rates)</i> |
|---|---|---|
| <p>1. In respect of the exercise by or on behalf of the Accountant in Bankruptcy of that office’s functions as interim trustee in a sequestration where the Accountant in Bankruptcy is not appointed as permanent trustee in that sequestration—</p> <p>(a) in respect of each of the first five hours of work;</p> <p>(b) in respect of each subsequent hour of work</p> | <p>£37 per hour</p> <p>£66 per hour</p> | <p>£31 per hour</p> <p>£55 per hour</p> |
| <p>2. In respect of the exercise by or on behalf of the Accountant in Bankruptcy of that office’s functions as interim and permanent trustee, or as permanent trustee, in a sequestration, other than in respect of the realisation of assets in the sequestrated estate—</p> <p>(a) in respect of each of the first 21 hours of work;</p> <p>(b) in respect of each subsequent hour of work</p> | <p>£37 per hour</p> <p>£66 per hour</p> | <p>£31 per hour</p> <p>£55 per hour</p> |
| <p>3. In respect of the exercise by or on behalf of the Accountant in Bankruptcy of that office’s functions as permanent trustee in a sequestration in relation to the</p> | | |

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| <i>Column 1 (Functions)</i> | <i>Column 2 (Rates)</i> | <i>Column 3 (Former Rates)</i> |
|---|---|--|
| realisation of assets in the sequestrated estate– | | |
| (a) in respect of the total price paid in a transaction by the purchaser of heritable property, including any interest paid thereon, but after the deduction of any sums paid to secured creditors in respect of their securities over that property– | | |
| (i) on the first £10,000 or fraction thereof; | 5% of that amount | <i>(No change)</i> |
| (ii) on the next £10,000 or fraction thereof; | 1% of that amount | <i>(No change)</i> |
| (iii) on all further sums; | 0.5% of that amount | <i>(No change)</i> |
| (b) in respect of the proceeds of the sale of moveable property, after the deduction of the expenses of sale and any sums paid to secured creditors in respect of their securities over that property. | 5% of that amount | <i>(No change)</i> |
| 4. In respect of the exercise by or on behalf of the Accountant in Bankruptcy of that office’s functions as permanent trustee in relation to the payment of dividends to creditors. | £74 plus £37 in respect of each creditor who is paid a dividend | Whichever is the greater of– (a) the sum payable for the total work carried out at a rate of £30 per hour; or (b) £60 plus £30 in respect of each creditor who is paid a dividend. |

PART II

| <i>Column 1 (Functions)</i> | <i>Column 2 (Fee Payable)</i> | <i>Column 3 (Fee Formerly Payable)</i> |
|---|-----------------------------------|--|
| 1. For registering award of sequestration | £19.00 | £16.00 |

| <i>Column 1 (Functions)</i> | <i>Column 2 (Fee Payable)</i> | <i>Column 3 (Fee Formerly Payable)</i> |
|--|--|--|
| 2. For registering copy act and warrant | £19.00 | £16.00 |
| 3. For supervising proceedings in sequestration– | | |
| (a) where commissioners have been elected; | £132.00 | £110.00 |
| (b) where no commissioners have been elected; | £200.00 | £165.00 |
| (c) where the Accountant in Bankruptcy is the permanent trustee | £132.00 | £110.00 |
| 4. For supervising payment of dividend to creditors where no commissioners have been elected | £66.00 | £55.00 |
| 5. For any special report to the court | £66.00 | £55.00 |
| 6. For considering and issuing a determination in an appeal against a determination of commissioners as to the outlays and remuneration payable to a permanent trustee | 5% of the sum remaining on deduction from the sum of outlays and remuneration determined by the Accountant in Bankruptcy of any outlays incurred by way of statutory fees, trading expenses or expenses of realisation | <i>(No change)</i> |
| 7. For issuing a determination fixing the outlays and remuneration payable to– | 17.5% of the sum remaining on deduction from the sum of outlays and remuneration determined of any outlays incurred by way of statutory fees, trading expenses or expenses of realisation | <i>(No change)</i> |
| (a) an interim trustee; or | | |
| (b) a permanent trustee | | |
| 8. For examination of the sederunt book and related work, in connection with the discharge of a permanent trustee | £34.00 | £28.00 |
| 9. For granting a certificate of discharge to an interim trustee | £34.00 | £28.00 |
| 10. For granting a certificate of discharge to a debtor | £10.00 | £8.00 |

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| <i>Column 1 (Functions)</i> | <i>Column 2 (Fee Payable)</i> | <i>Column 3 (Fee Formerly Payable)</i> |
|--|-----------------------------------|--|
| 11. For providing a certified copy of an entry in the register of insolvencies | £23.00 | £19.00 |
| 12. For the certifying of any other document (excluding copying charges) | £16.00 | £13.00 |
| 13. For providing a copy of any document— | | |
| (a) by photocopying— | | |
| (i) 10 pages or less | £10.00 | £8.00 |
| (ii) each page after first 10 | £0.30 | £0.25 |
| (b) in an electronic medium or by printout from records held on computer – per document | £0.12 | £0.10 |
| 14. For searches in the register of insolvencies— | | |
| (a) where the search is carried out by staff of the Accountant in Bankruptcy – for each search in respect of a debtor | £16.00 | <i>(No change)</i> |
| (b) where searches are carried out by remote direct access by computer – for each day from 0000 hours to 2359 hours | £16.00 | <i>(No change)</i> |
| (c) where searches are carried out by remote direct access by computer – for each year or part thereof | £4,000.00 | <i>(No change)</i> |
| (d) where searches are carried out by remote direct access by computer by non profit making bodies established in the UK including the Scottish Executive, | £nil | <i>(No change)</i> |

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| <i>Column 1 (Functions)</i> | <i>Column 2 (Fee Payable)</i> | <i>Column 3 (Fee Formerly Payable)</i> |
|---|---|--|
| UK Government Departments, Police and Credit Unions, on proof to the satisfaction of the Accountant in Bankruptcy of non profit making status | | |
| (e) where searches are carried out by remote direct access by computer by persons acting as agents of the Accountant in Bankruptcy | £nil | <i>(No change)</i> |
| 15. For attendance at any meeting of creditors – fee per hour or part thereof, including travelling time | £66.00 | £55.00 |
| 16. For calling any meeting of creditors | £34.00 | £28.00 |
| 17. For attendance at any examination of the debtor – fee per hour or part thereof, including travelling time | £66.00 | £55.00 |
| 18. For registering protected trust deed | £34.00 | £28.00 |
| 19. For auditing the accounts of a trustee under a protected trust deed and fixing the trustee’s remuneration. | 5% of the sum remaining on deduction from the sum of outlays and remuneration determined of any outlays incurred by way of statutory fees, trading expenses or expenses of realisation. | <i>(No change)</i> |
| 20. For lodging any unclaimed dividend in an appropriate bank or institution set aside for payment to a creditor or creditors, in respect of each creditor on consignation | £12.00 | £10.00 |
| 21. For uplifting any sum lodged in an appropriate bank or institution, in respect of each creditor on consignation | £12.00 | £10.00” |

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Bankruptcy Fees (Scotland) Regulations 1993 (“the principal Regulations”) to prescribe amended fees payable to the Accountant in Bankruptcy in respect of the exercise of the Accountant in Bankruptcy’s functions under the Bankruptcy (Scotland) Act 1985.

The change in the amount of the fees prescribed in the principal Regulations is illustrated in column 3 of the Table of Fees set out in the Schedule.

The Regulations also make a minor amendment to the definitions in the principal Regulations, and minor clarifications to function 4 in Part I and function 21 in Part II of the Schedule. They also revoke amendments superseded by these Regulations.