
SCOTTISH STATUTORY INSTRUMENTS

2010 No. 367

The Bankruptcy (Scotland) Amendment Regulations 2010

Citation and commencement

1. These Regulations may be cited as the Bankruptcy (Scotland) Amendment Regulations 2010 and come into force on 15th November 2010.

Interpretation

2. In these Regulations “the 2008 Regulations” means the Bankruptcy (Scotland) Regulations 2008(1).

Amendment of the Bankruptcy (Scotland) Regulations 2008

3.—(1) The 2008 Regulations are amended as follows.

(2) For regulation 2 (interpretation) substitute—

“Interpretation

(1) In these Regulations—

“the 1985 Act” means the Bankruptcy (Scotland) Act 1985; and

“the 1985 Regulations” means the Bankruptcy (Scotland) Regulations 1985(2).

(2) Any reference in these Regulations to anything done in writing or produced in written form includes a reference to an electronic communication, as defined in the Electronic Communications Act 2000(3), which has been recorded and is consequently capable of being reproduced.”

(3) Omit regulations 11 (notice of sequestration in Edinburgh Gazette by trustee) and 15 (debtor application/low income, low assets).

(4) In regulation 14 (debtor applications)—

(a) in paragraph (1)(a) omit “without concurrence of a qualified creditor or creditors”;

(b) omit paragraph (1)(b);

(c) in paragraph (1)(c) after “11” insert “accompanied by a statement of assets and liabilities in the form of Form 25.”;

(d) omit from “; and shall be accompanied” to the end of paragraph (1);

(e) in paragraph (3)—

(i) insert after sub-paragraph (a)—

“(aa) further information is required to substantiate any fact;”;

(ii) for “(a), (b) or (c)” substitute “(a), (aa), (b) or (c)”;

(f) in paragraph (4) insert after sub-paragraph (a)—

(1) S.S.I. 2008/82 as amended by S.S.I. 2008/334.

(2) S.I. 1985/1925 as amended by S.I. 1986/1914, 1993/439 and 2003/2109.

(3) 2000 c.7. Section 15 of the Electronic Communication Act 2000 contains a definition of “electronic communication”.

“(aa) the Accountant in Bankruptcy is not satisfied that the debtor has provided sufficient information in response to any requirement imposed under paragraph (3);”.

(5) Insert after regulation 19 (abandonment of heritable property by trustee)—

“Notice by trustee of proceedings to obtain authority in relation to debtor’s family home

19A. A notice by a trustee, or by a trustee acting under a trust deed, for the purposes of section 40(3A) of the 1985 Act shall be in the form of Form 24.”.

(6) In the Schedule—

- (a) for Form 3 (statement of assets and liabilities – petition by creditor or trustee under a trust deed) substitute the form set out in Schedule 1 to these Regulations;
- (b) for Form 9 (debtor application) substitute the form set out in Schedule 2 to these Regulations;
- (c) omit Form 10 (debtor application with concurrence);
- (d) omit Form 12 (statement of assets and liabilities for debtor application);
- (e) for Form 15 (refusal of award of sequestration) substitute the form set out in Schedule 3 to these Regulations;
- (f) omit Form 17 (statutory declaration of low income and low assets); and
- (g) after Form 23 insert Forms 24 (notice of proceedings to obtain the authority of a sheriff to sell or dispose of any right or interest in a debtor’s family home) and 25 (statement of assets and liabilities) as set out in Schedules 4 and 5 to these Regulations.

Prescribed amount for the purposes of section 11(1)(b) of the Debt Arrangement and Attachment (Scotland) Act 2002.

4. For the purposes of section 11(1)(b) of the Debt Arrangement and Attachment (Scotland) Act 2002 (articles exempt from attachment) the prescribed value of a vehicle is £3,000.

Saving provisions

5. Notwithstanding the revocation of regulations 11 and 15(3) of the 2008 Regulations, those provisions shall continue to have effect in respect of sequestrations awarded prior to 15th November 2010.

6. Notwithstanding the revocation of regulation 14(1)(b) of the 2008 Regulations, that provision shall continue to have effect in respect of applications under section 5(2A) of the Bankruptcy (Scotland) Act 1985 received by the Accountant in Bankruptcy prior to 15th December 2010.

7. Notwithstanding the revocation of regulations 15(1) and 15(2) of the 2008 Regulations, those provisions shall continue to have effect in respect of any application such as referred to in regulation 15(1) made prior to 15th November 2010.

St Andrew’s House,
Edinburgh
21st October 2010

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