
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the fees and outlays payable to the Accountant in Bankruptcy (“AiB”) in respect of the exercise of that office’s functions under the Bankruptcy (Scotland) Act 2016 (“the 2016 Act”). They also prescribe when and in what manner certain bankruptcy fees and outlays are due for payment.

The Regulations revoke and replace the Bankruptcy Fees (Scotland) Regulations 2014 (“the 2014 Regulations”), subject to a saving for petitions and applications for sequestration lodged or trust deeds for the benefit of creditors granted before 3rd April 2017. They are made following the 2016 Act consolidation and a review of fee rates.

The fees formerly payable under the 2014 Regulations are shown in column 3 of the Table of Fees in the schedule of these Regulations (“table of fees”); where there is no change this is expressly stated. In some cases, the fees may be met as expenses in the distribution of the estate of the debtor (see section 129 of the 2016 Act).

The fees set by Part 1 of the table of fees relate to the exercise of AiB’s functions of acting as interim trustee and trustee in sequestration (regulations 3 to 5). The fees set by Part 2 of the table of fees relate to other functions of AiB (regulations 6 to 12).

Interest on fees unpaid after 30 days may be charged by AiB from the date of a written request served after that date in accordance with section 26 of the Interpretation and Legislative Reform (Scotland) Act 2010 (regulation 12). This can be applied to outstanding fees due under bankruptcy fees regulations which have been revoked and saved for proceedings begun on certain dates, but only where those fees become due on or after 3rd April 2017, and with interest accruing from service of a request after that date.

A Business and Regulatory Impact Assessment has been prepared for these Regulations and can be obtained from the Accountant in Bankruptcy, 1 Pennyburn Road, Kilwinning.