



Bankruptcy (Scotland) Act 1985 (repealed)^{F1}

CHAPTER 66

BANKRUPTCY (SCOTLAND) ACT 1985 (REPEALED)

Administration of bankruptcy

- 1 Accountant in Bankruptcy.
- 1A Supervisory functions of the Accountant in Bankruptcy.
- 1B Performance of certain functions of the Accountant in Bankruptcy.
- 1C Directions.
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- 2 Appointment and functions of the trustee in the sequestration
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- 5A Debtor applications by low income, low asset debtors
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- 6 Sequestration of other estates.

Changes to legislation: Bankruptcy (Scotland) Act 1985 (repealed) is up to date with all changes known to be in force on or before 16 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- 6A Petition for sequestration of estate: provision of information
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- 20A Statutory meeting.

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- 21 Calling of statutory meeting.
- 21A Calling of statutory meeting
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27 Discharge of original trustee

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- 30 Election, resignation and removal of commissioners.

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- 37 Effect of sequestration on diligence.

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- 46 Provisions ancillary to sections 44 and 45.
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- 48 Submission of claims to trustee
- 49 Adjudication of claims.

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- 50 Entitlement to vote and draw dividend.

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- 51 Order of priority in distribution.
- 52 Estate to be distributed in respect of accounting periods.
- 53 Procedure after end of accounting period.
- 53A Modification of procedure under section 53 where Accountant in Bankruptcy is trustee

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- 54 Discharge where Accountant in Bankruptcy not the trustee
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- 54B Discharge of debtor: review and appeal
- 54C Debtor to whom section 5(2ZA) applies: discharge
- 54D Deferral of discharge where debtor cannot be traced
- 54E Debtor not traced: new trustee
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- 54G Subsequent debtor contact: review and appeal
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- 55A Discharge under section 54C: conditions
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- 56A Bankruptcy restrictions order
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- 56D Timing for making an order
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- 56F Interim bankruptcy restrictions order
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- 56K Effect of discharge on approval of offer of composition

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- 57 Discharge of trustee
- 58 Unclaimed dividends.
- 58A Discharge of Accountant in Bankruptcy
- 58B Assets discovered after trustee discharge: appointment of trustee
- 58C Assets discovered after trustee discharge: notice
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Voluntary trust deeds for creditors

- 59 Voluntary trust deeds for creditors.
- 59A Application for conversion to sequestration
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- 60 Liabilities and rights of co-obligants.
- 60A Member State liquidator deemed creditor
- 60B Trustee's duties concerning notices and copies of documents
- 61 Extortionate credit transactions.
- 62 Sederunt book and other documents.
- 63 Power of court to cure defects in procedure.
- 63A Power of Accountant in Bankruptcy to cure defects in procedure
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- 63C Review of decisions by Accountant in Bankruptcy: grounds of appeal
- 64 Debtor to co-operate with trustee
- 65 Arbitration and compromise.
- 66 Meetings of creditors and commissioners.
- 67 General offences by debtor etc.
- 68 Summary proceedings.
- 69 Outlays of insolvency practitioner in acting as interim trustee or trustee
- 69A Fees for the Accountant in Bankruptcy.
- 70 Supplies by utilities.
- 71 Edinburgh Gazette.
- 71A Further duty of Accountant in Bankruptcy
- 71B Disqualification provisions: power to make orders
- 71C Regulations: applications to Accountant in Bankruptcy etc.
- 72 Regulations.
- 72ZA Modification of regulation making powers
- 72A Variation of references to time, money etc.
- 73 Interpretation.
- 74 Meaning of "associate".
- 75 Amendments, repeals and transitional provisions.
- 76 Receipts and expenses.
- 77 Crown application.
- 78 Short title, commencement and extent.

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SCHEDULES

SCHEDULE A1 — DEBTOR TO WHOM SECTION 5(2ZA) APPLIES: APPLICATION OF ACT

- 1 Modification of certain provisions of Act
- 2 Accountant in Bankruptcy's duty to consider whether paragraph 1 should cease to apply
- 3 Procedure where Accountant in Bankruptcy considers paragraph 1 should cease to apply
- 4 Debtor's right of appeal against decision under paragraph 3
- 5 Decision that paragraph 1 ceases to have effect: modification of certain provisions of Act

SCHEDULE 1 — Determination of Amount of Creditor's Claim

Amount which may be claimed generally

- 1 (1) Subject to the provisions of this Schedule, the amount...

Claims for aliment and periodical allowance on divorce

- 2 (1) A person entitled to aliment, however arising, from a...

Debts depending on contingency

- 3 (1) Subject to sub-paragraph (2) below, the amount which a...

...

- 4 Determination of Amount of Creditor's Claim

Secured debts

- 5 (1) In calculating the amount of his claim, a secured...

Valuation of claims against partners for debts of the partnership

- 6 Where a creditor claims in respect of a debt of...

SCHEDULE 2 —

- 1 Except where the permanent trustee is the Accountant in Bankruptcy, section...
- 2 (1) In place of section 25, sub-paragraph (2) below shall...
- 3 (1) In place of subsections (1A) to (5) of section...
- 4 (1) Section 29 shall have effect as follows.
- 5 Where an appointment is made under paragraph 3(3), or by...
- 6 Section 30 shall not have effect, and, in any sequestration...
- 7 In section 39, subsection (1) shall not have effect...
- 8 Except where the permanent trustee is the Accountant in Bankruptcy, any...
- 9 (1) Where the permanent trustee is the Accountant in Bankruptcy,...

Schedule 2A — Modification of duties of permanent trustee in summary administration

- 1 The permanent trustee shall comply with the requirements of sections...

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- 2 The permanent trustee shall, until the debtor is discharged under...
- 3 (1) Where the Accountant in Bankruptcy is not the permanent...
- 4 (1) The permanent trustee shall, as soon as a certificate...
- 5 Except in the case of an application for the grant...

SCHEDULE 3 — PREFERRED DEBTS
Part I — LIST OF PREFERRED DEBTS

Debts to Inland Revenue

1

Debts due to Customs and Excise

2

Social Security contributions

3

Contributions to occupational pension schemes, et cetera etc.

4 Any sum which is owed by the debtor and is...

Remuneration of employees, et cetera etc.

- 5 (1) So much of any amount which—
- 6 So much of any amount which— (a) is ordered, whether...

Levies on coal and steel production

6A Any sums due at the relevant date from the debtor...

Debts owed to the Financial Services Compensation Scheme

6AA Any debt owed by the debtor to the scheme manager...

Deposits covered by Financial Services Compensation Scheme

6B So much of any amount owed at the relevant date...

Other deposits

- 6C So much of any amount owed at the relevant date...
- 6D An amount owed at the relevant date by the debtor...

Part II — INTERPRETATION OF PART I

Meaning of “the relevant date”

7 In Part I of this Schedule “the relevant date” means—...

Periods to which value added tax referable

8 PREFERRED DEBTS

Periods to which insurance premium tax referable

8A PREFERRED DEBTS

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Periods to which landfill tax referable

8B PREFERRED DEBTS

Periods to which climate change levy referable

8C PREFERRED DEBTS

8D Periods to which aggregates levy referable

Amounts payable by way of remuneration

9 (1) For the purposes of paragraph 5 of Part I...

Meaning of scheme manager

9ZA In paragraph 6AA “the scheme manager” has the meaning given...

Meaning of eligible deposit

9A (1) In paragraphs 6B to 6D “eligible deposit”...

Transitional Provisions

10 Regulations under paragraph 5 or 6 of Part I of...

SCHEDULE 3A — INFORMATION TO BE INCLUDED IN THE SEDERUNT BOOK

- 1 A copy of a debtor application made under section 5(2)(a)...
- 2 A copy of a petition presented under section 5(2)(b).
- 3 Where the trustee is the Accountant in Bankruptcy, a copy...
- 4 A copy of an award of sequestration granted under section...
- 5 A copy of a warrant to cite the debtor granted...
- 6 Where the trustee is not the Accountant in Bankruptcy—
- 7 Where the trustee is the Accountant in Bankruptcy—
- 8 Where the Accountant in Bankruptcy is appointed as interim trustee...
- 9 A copy of any— (a) order recalling or refusing to...
- 10 A copy of any order under section 41(1)(b)(ii) or 41A(1)(b)(ii)...
- 11 Where the trustee is a replacement trustee appointed under section...
- 12 Where the trustee is not the Accountant in Bankruptcy, a...
- 13 A copy of a notice given under section 21A(2).
- 14 Where the trustee is not the Accountant in Bankruptcy, a...
- 15 Where the trustee is a replacement trustee appointed under section...
- 16 A copy of any initial proposal for the debtor’s contribution...
- 17 A copy of a debtor contribution order applying to the...
- 18 A copy of any decree issued under section 34 affecting...
- 19 A copy of any decree of recall issued following an...
- 20 A copy of any decree issued under section 36 affecting...
- 21 The inventory and valuation of the estate made up and...
- 22 A copy of an account given by the debtor under...
- 23 The debtor’s deposition at an examination subscribed under section 47(5)....
- 24 A copy of the record of an examination sent to...
- 25 An appropriate entry in relation to the production of any...
- 26 Where the trustee accepts or rejects a claim under section...
- 27 A copy of a decision of the Accountant in Bankruptcy...
- 28 An agreement or determination in respect of the accounting period...

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- 29 Where the trustee is not the Accountant in Bankruptcy, the...
- 30 A copy the certificate of discharge given to the debtor...
- 31 A copy the certificate deferring discharge where the debtor cannot...
- 32 Where the Accountant in Bankruptcy has acted as trustee, after...
- 33 Where the Accountant in Bankruptcy has acted as trustee and...
- 34 A decision of the court under section 63 and of...
- 35 A copy of a decree arbitral or, as the case...
- 36 The minutes of the meeting mentioned in paragraph 7 of...
- 37 A copy of the minutes of any meeting sent to...
- 38 Where a meeting of commissioners is called in accordance with...
- 39 A copy of any decision (including any determination, direction, award,...
- 40 A copy of any decree, interlocutory decree, direction or order...

SCHEDULE 4 — Discharge on Composition

- 1 Discharge on Composition
- 2 Discharge on Composition
- 3 Discharge on Composition
- 4 Discharge on Composition
- 5 Discharge on Composition
- 6 Discharge on Composition
- 7 Discharge on Composition
- 8 Discharge on Composition
- 8A Discharge on Composition
- 9 Discharge on Composition
- 10 Discharge on Composition
- 11 Discharge on Composition
- 12 Discharge on Composition
- 13 Discharge on Composition
- 14 Discharge on Composition
- 15 Discharge on Composition
- 16 Discharge on Composition
- 17 Discharge on Composition
- 18 Discharge on Composition

SCHEDULE 5 — Voluntary Trust Deeds for Creditors

Remuneration of trustee

- 1 Whether or not provision is made in the trust deed...

Accountant in Bankruptcy's power to carry out audit

- 1A The Accountant in Bankruptcy may, at any time, audit the...

Registration of notice of inhibition

- 2 (1) The trustee, from time to time after the trust...

Lodging of claim to bar effect of limitation of actions

- 3 The submission of a claim by a creditor to the...

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Valuation of claims

4 Unless the trust deed otherwise provides, Schedule 1 to this...

Protected trust deeds

5 (1) The Scottish Ministers may by regulations make provision as...

6 Where the provisions of paragraph 5 of this Schedule have...

7 (1) A qualified creditor who has not been sent a...

8 In this Act a trust deed in respect of which...

9 Where the trustee under a protected trust deed has made...

10 Where the trustee under a protected trust deed has obtained...

Creditors not acceding to protected trust deed

11 A creditor who has not been sent a copy of...

12 Where, on an application by a creditor under paragraph 11...

13 Where the court makes an order under paragraph 12 above,...

SCHEDULE 6 — MEETINGS OF CREDITORS AND COMMISSIONERS

Part I — MEETINGS OF CREDITORS OTHER THAN THE STATUTORY MEETING

Calling of meeting

1 The . . . trustee shall call a meeting of...

2 A meeting called under paragraph 1 above shall be held...

3 The . . . trustee or a commissioner who has...

4 The . . . trustee or a commissioner calling a...

5 (1) Where a requirement has been made under paragraph 1...

6 It shall not be necessary to notify under paragraph 4...

Role of . . . trustee at meeting

7 (1) At the commencement of a meeting, the chairman shall...

Appeals

8 The . . . trustee, a creditor or any other...

Part II — ALL MEETINGS OF CREDITORS

Validity of proceedings

9 No proceedings at a meeting shall be invalidated by reason...

Locus of meeting

10 Every meeting shall be held in such place (whether or...

Mandatories

11 (1) A creditor may authorise in writing any person to...

Quorum

12 The quorum at any meeting shall be one creditor.

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Voting at meeting

- 13 Any question at a meeting shall be determined by a...

Objections by creditors

- 14 (1) The chairman at any meeting may allow or disallow...

Adjournment of meeting

- 15 (1) If no creditor has appeared at a meeting at...

Minutes of meeting

- 16 The minutes of every meeting shall be signed by the...

Part III — MEETINGS OF COMMISSIONERS

- 17 The . . . trustee may call a meeting of...
18 If the . . . trustee fails to call a...
19 The . . . trustee shall give the commissioners at...
20 The . . . trustee shall act as clerk at...
21 If the commissioners are considering the performance of the functions...
22 The quorum at a meeting of commissioners shall be one...
23 Any matter may be agreed by the commissioners without a...

SCHEDULE 7 —

Part I — CONSEQUENTIAL AMENDMENTS

The Judicial Factors (Scotland) Act 1880 (c.4)

- 1 In section 3 (interpretation), for the words “section 14 or...
2
7
10
19—22

The Judicial Factors (Scotland) Act 1889 (c.39)

- 3 In section 2, at the beginning there shall be inserted...
4 After section 11 there shall be inserted the following sections—...

The Conveyancing (Scotland) Act 1924 (c. 27)

- 5 In section 44(4)(c) (limitation of effect of entries in the...
...

- 6 (1) In section 1(2) (rights of third parties against insurers...

The Conveyancing and Feudal Reform (Scotland) Act 1970 (c.35)

- 8 In paragraph 9(2)(b) of Schedule 3 (“insolvent” for purposes of...

The Superannuation Act 1972 (c.11)

- 9 In section 5(2) (benefits under civil service superannuation schemes not...

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The Prescription and Limitation (Scotland) Act 1973 (c.52)

- 11 In section 9(1), for paragraph (b) there shall be substituted...

The Local Government (Scotland) Act 1973 (c.65)

- 12 In section 31(2) (disqualifications regarding members of local authority), for...

The Social Security Pensions Act 1975 (c.60)

- 13

The Employment Protection (Consolidation) Act 1978 (c.44)

- 14 (1)

The Land Registration (Scotland) Act 1979 (c.33)

- 15

The Banking Act 1979 (c.37)

- 16 In section 28 (payments to depositors on institution's insolvency)—

The Estate Agents Act 1979 (c.38)

- 17 In section 23(2) (bankrupts not to engage in estate agency...

The Value Added Tax Act 1983 (c.55)

- 18 In section 22(4)(a)(ii) ("insolvency" for purposes of refund of tax...

The Family Law (Scotland) Act 1985 (c.37)

- 23 In section 14(5)(b) for the words from "sections 30" to...

Part II — RE-ENACTMENT OF CERTAIN PROVISIONS OF BANKRUPTCY
(SCOTLAND) ACT 1913 (C. 20)

Arrestments and POUNDINGS

- 24 (1) Subject to sub-paragraph (2) below, all arrestments and attachments...

*Exemptions from stamp or other duties for conveyances,
deeds et cetera etc. relating to sequestrated estates*

- 25 Any— (a) conveyance, assignation, instrument, discharge, writing, or deed relating...

SCHEDULE 8 — Repeals

.....

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Changes and effects yet to be applied to :

- s. 7(1)(c)(iv) repealed by [2007 asp 3 Sch. 6 Pt. 1](#)
- s. 14(1)(a) words repealed by [2007 asp 3 Sch. 6 Pt. 1](#)
- s. 14(2) words repealed by [2007 asp 3 Sch. 6 Pt. 1](#)
- s. 14(3)(a) words repealed by [2007 asp 3 Sch. 6 Pt. 1](#)
- s. 14(4) words repealed by [2007 asp 3 Sch. 6](#)
- s. 15(5)(a) words repealed by [2007 asp 3 Sch. 6 Pt. 1](#)
- s. 17(8)(a) words repealed by [2007 asp 3 Sch. 6 Pt. 1](#)
- s. 37(1)(a) repealed by [2007 asp 3 Sch. 6 Pt. 1](#)
- s. 37(8) words repealed by [2007 asp 3 Sch. 6 Pt. 1](#)
- s. 46(1)(a) words substituted by [2007 asp 3 Sch. 1 para. 41\(a\)](#) (This amendment not applied to legislation.gov.uk. Sch. 1 para. 41(a) repealed (31.1.2011) by 2010 asp 8, sch. 4 Pt. 2; S.S.I. 2011/30, art. 3(1), Sch. 1)
- s. 54(7)(a) words repealed by [2007 asp 3 Sch. 6 Pt. 1](#)
- Sch. 1 para. 4 words repealed by [2007 asp 3 s. 21\(13\)](#)
- Sch. 4 para. 14 words inserted by [2007 asp 3 s. 21\(9\)\(b\)](#)
- Sch. 4 para. 14 words repealed by [2007 asp 3 s. 21\(9\)\(a\)](#)
- Sch. 4 para. 17(1) words repealed by [2007 asp 3 s. 21\(11\)\(a\)](#)
- Sch. 4 para. 18(1) words repealed by [2007 asp 3 s. 21\(12\)\(a\)](#)
- Sch. 4 para. 1(1) words substituted by [2007 asp 3 s. 21\(2\)](#)
- Sch. 4 para. 9(3) words substituted by [2007 asp 3 s. 21\(5\)](#)
- Sch. 4 para. 10 words substituted by [2007 asp 3 s. 21\(6\)\(a\)](#)
- Sch. 4 para. 10(a) words substituted by [2007 asp 3 s. 21\(6\)\(b\)](#)
- Sch. 4 para. 12 words substituted by [2007 asp 3 s. 21\(8\)](#)
- Sch. 4 para. 16(1) words substituted by [2007 asp 3 s. 21\(10\)\(a\)](#)
- Sch. 4 para. 16(2) words substituted by [2007 asp 3 s. 21\(10\)\(b\)](#)
- Sch. 4 para. 17(1) words substituted by [2007 asp 3 s. 21\(11\)\(b\)](#)
- Sch. 4 para. 18(1) words substituted by [2007 asp 3 s. 21\(12\)\(b\)](#)
- Sch. 5 para. 2(1) words repealed by [2007 asp 3 Sch. 6 Pt. 1](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 1A(1)(b)(iib) inserted by [2007 asp 3 s. 18\(5\)](#)
- s. 31(9)(d) inserted by [2016 asp 19 Sch. 4 para. 3](#)
- s. 37(5B)(5C) inserted by [2007 asp 3 Sch. 5 para. 13\(3\)\(e\)](#)