
 STATUTORY INSTRUMENTS

1985 No. 1925 (S. 147)

BANKRUPTCY, SCOTLAND

The Bankruptcy (Scotland) Regulations 1985

Made - - - - - 4th December 1985

Laid before Parliament 23rd December 1985

Coming into Operation—

For the purposes of regulations 3 and 4 - 1st February 1986

For all other purposes - 1st April 1986

The Secretary of State, in exercise of the powers conferred on him by sections 6(7), 7(1)(d), 8(2), 11(1), 15(6), 19(1), 22(2)(a) and (6), 23(1)(a), 25(6)(b), 45(3)(a), 48(7), 49(3), 51(7)(a), 54(2), 67(8), 69, 73 and 74 of, and paragraph 4(c) of Schedule 4 and paragraphs 5(b) and 9(a) of Schedule 5 to, the Bankruptcy (Scotland) Act 1985(a) and of all other powers enabling him in that behalf, hereby makes the following regulations:—

Citation and commencement

1. These regulations may be cited as the Bankruptcy (Scotland) Regulations 1985 and shall come into operation, for the purposes of regulations 3 and 4 of these regulations, on 1st February 1986 and for all other purposes, on 1st April 1986.

Interpretation

2. In these regulations,

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

“the 1907 Act” means the Limited Partnerships Act 1907(b);

Qualification to act as insolvency practitioner

3.— (1) A person shall be qualified to act as an insolvency practitioner for the purposes of the Act, until the coming into force of section 2 of the Insolvency Act 1985(c) only if he satisfies the following requirements:—

(a) he is an individual;

(b) he holds a certificate entitling him, or is otherwise entitled, at the

(a) 1985 c.66.

(b) 1907 c.24.

(c) 1985 c.65.

relevant time, to practise as a member of a relevant professional body or, in any other case, he has, at the relevant time, a minimum of 5 years' experience as an insolvency practitioner;

- (c) he finds caution in accordance with the provisions of regulation 4 of these regulations; and
 - (d) he is not an undischarged bankrupt.
- (2) For the purposes of paragraph (1) above—
- (a) the expression “the relevant time” means any time at which a person acts as an insolvency practitioner or has, or seeks to have, his name included in the list of interim trustees;
 - (b) the expression “a relevant professional body” means—
 - The Law Society of Scotland
 - The Institute of Chartered Accountants of Scotland
 - The Insolvency Practitioners Association
 - The Chartered Association of Certified Accountants
 - The Law Society
 - The Institute of Chartered Accountants in England and Wales
 - The Institute of Chartered Accountants in Ireland;
 - (c) a person shall be treated as having a minimum of 5 years' experience as an insolvency practitioner if he has, in not less than 10 cases in the previous 5 years, acted—
 - (i) as a liquidator, receiver or trustee in bankruptcy or trustee under a trust deed or other voluntary arrangement for the benefit of creditors or a judicial factor under section 163 of the Bankruptcy (Scotland) Act 1913,^(a) or under section 11A of the Judicial Factors (Scotland) Act 1889^(b) or in any similar capacity in any member state of the European Communities; or
 - (ii) as a senior assistant or deputy to any of those persons; and
 - (d) an undischarged bankrupt means a person who has not been discharged after his estate has been sequestrated or he has been adjudged bankrupt or he has granted a trust deed for the benefit of his creditors or he has been subject, in any other country, to any procedure similar to sequestration, bankruptcy or the granting of a trust deed for creditors.

4.— (1) For the purposes of regulation 3(1)(c) of these regulations, a person shall be qualified to act as an insolvency practitioner in the circumstances set out in the following paragraphs if he finds caution in accordance with the following provisions of this regulation.

(2) A person shall be qualified to act as an interim trustee if he lodges with the Accountant in Bankruptcy at the time of his application for his name to be included in the list of interim trustees and, for as long as his name remains on that list, maintains in force a bond (hereinafter referred to as “a global bond”) in terms of which it is provided that, whenever he is appointed as an interim

(a) 1913 c.20.

(b) 1889 c.39; section 11A was inserted by the Bankruptcy (Scotland) Act 1985, Schedule 7, paragraph 4.

trustee in a sequestration, the amount of caution in respect of his actings or omissions as interim trustee shall be not less than the net value of the debtor's assets in the sequestration as estimated by the interim trustee.

(3) Subject to paragraph (4) below, a person shall be qualified to act as a permanent trustee in a sequestration, if, for as long as he acts as such trustee, he has and maintains in force

(a) in the case where he has acted as the interim trustee in the sequestration, the global bond referred to in paragraph (2) above, which provides for caution, or

(b) a bond of caution, which he lodges with the sheriff clerk, before the issue of the act and warrant in his favour,

in respect of his actings or omissions as a permanent trustee for such amount as shall be not less than the net value of the debtor's assets in the final statement of the debtor's affairs prepared by the interim trustee under section 23(3)(d) of the Act.

(4) A person shall be qualified to act as a trustee under a protected trust deed, if, for as long as he acts as such trustee, he has and maintains in force a bond of caution or a global bond referred to in paragraph (2) above which provides for caution in respect of his actings or omissions as such trustee for such amount as shall not be less than the value of the debtor's assets conveyed to him under the trust deed.

(5) In this regulation, the expression "net value of the debtor's assets" means the value of the debtor's assets under deduction of any security which is not surrendered to the insolvency practitioner.

Forms

5. The forms set out in the Schedule to these regulations are the forms prescribed for the purposes of the provisions of the Act referred to therein.

Claims in foreign currency

6. A creditor may state the amount of his claim in foreign currency for the purposes of section 22(6), or that section as applied by section 48(7), of the Act, where—

(a) his claim is constituted by decree or other order made by a court ordering the debtor to pay to the creditor a sum expressed in foreign currency; or, where it is not so constituted,

(b) his claim arises from a contract or bill of exchange in terms of which payment is or may be required to be made by the debtor to the creditor in foreign currency.

Conversion of foreign currency claims

7. For the purposes of sections 23(1)(a) and 49(3) of the Act, the manner of conversion into Sterling of the amount of a claim stated in foreign currency

shall be at the rate of exchange for that currency at the mean of the buying and selling spot rates prevailing at the close of business on the date of sequestration in the London market as published in any national newspaper.

Interest on claims in sequestration

8. The prescribed rate of interest for the purposes of section 51(7) of the Act (interest on preferred debts and ordinary debts between the date of sequestration and the date of payment of the debt) is 15 *per centum per annum*.

Amount of unsecured liabilities

9. The amount of the unsecured liabilities of the debtor, for the purposes of section 67(8) of the Act (the offence of failing to keep proper records), shall be £20,000.

Premium of bond of caution

10. Any premium (or a proportionate part thereof) of any bond of caution or other security required to be given by an insolvency practitioner in respect of his acting as an interim trustee or a permanent trustee in any sequestration in which he is elected or appointed may be taken into account as part of his outlays in that sequestration.

Definition of "associate"

11.— (1) Section 74 of the Act (meaning of "associate") shall be amended or modified in accordance with the following paragraphs:—

(2) Subsection (3) shall be amended by substituting for the words—

“and of the husband or wife or a relative of any individual with whom he is in partnership;”

the words

“and of any person who is an associate of any person with whom he is in partnership;”.

(3) After subsection (5), there shall be inserted the following subsections:—

“(5A) A company is an associate of another company—

- (a) if the same person has control of both, or a person has control of one and persons who are his associates, or he and persons who are his associates, have control of the other; or
- (b) if a group of two or more persons has control of each company, and the groups either consist of the same persons or could be regarded as consisting of the same persons by treating (in one or more cases) a member of either group as replaced by a person of whom he is an associate.

(5B) A company is an associate of another person if that person has control of it or if that person and persons who are his associates together have control of it.

(5C) For the purposes of this section a person shall be taken to have control of a company if—

- (a) the directors of the company or of another company which has control of it (or any of them) are accustomed to act in accordance with his directions or instructions; or
- (b) he is entitled to exercise, or control the exercise of, one third or more of the voting power at any general meeting of the company or of another company which has control of it;

and where two or more persons together satisfy either of the above conditions, they shall be taken to have control of the company.”

(4) Subsection (6) shall apply subject to the modification that, for the words “In subsection (5) above,” there shall be substituted the words “In subsections (5), (5A), (5B) and (5C) above,”.

Application of the Act to limited partnerships

12.— (1) The application of the Act to the sequestration of the estate of a limited partnership shall be subject to the modifications specified in this regulation.

(2) Any reference in the Act to a partnership (other than in section 6(1)) or to a firm shall be construed as including a reference to a limited partnership.

(3) In the application of section 9 of the Act to limited partnerships, the Court of Session and the Sheriff shall have jurisdiction in respect of the sequestration of the estate of a limited partnership if it is registered in Scotland for the purposes of the 1907 Act and, in the case of the sheriff, if it has an established place of business within the sheriffdom.

(4) For the purposes of section 8(2) of the Act, a petition for the sequestration of the estate of a limited partnership may be presented—

- (a) by a qualified creditor or qualified creditors only if the apparent insolvency founded on in the petition was constituted within four months before the date of presentation of the petition; or
- (b) at any time by any other person.

(5) Without prejudice to the provisions of sections 14(1), 15(5) and 17(8) of the Act, the clerk of court shall send a copy of every court order mentioned in those sections to the Registrar of Limited Partnerships in Scotland.

Department of Trade and Industry,
1 Victoria Street,
LONDON.

Michael Howard,
Parliamentary Under Secretary
of State for Corporate and
Consumer Affairs.

4th December 1985.

Regulation 5

SCHEDULE

LIST OF FORMS

<i>Form No.</i>	<i>Purpose</i>
1.	Statutory demand for payment of debt.
2.	Oath by creditor.
3.	Notice by the interim trustee in the Edinburgh Gazette and the London Gazette.
4.	List of the assets and liabilities of the debtor.
5.	Statement of claim by creditor.
6.	Notice by permanent trustee in the Edinburgh Gazette of confirmation in office.
7.	Notice by permanent trustee in the Edinburgh Gazette of public examination of the debtor or a relevant person.
8.	Certificate of discharge of debtor.
9.	Acceptance or rejection by creditor of an offer of composition.
10.	Notice in Edinburgh Gazette by trustee under a trust deed for the benefit of creditors.
11.	Statement of realisation and distribution of estate under a protected trust deed.

Form 1

STATUTORY DEMAND FOR PAYMENT OF DEBT

Bankruptcy (Scotland) Act 1985: Section 7(1)(d)

Warning to person receiving Demand

If you do nothing in response to this demand, you could be made bankrupt and your property and goods taken away from you. Please read **carefully** this Demand and Notes for Debtors.

Please do not ignore this form

If you are in any doubt about what to do, you should seek advice **immediately** from a solicitor or a Citizens Advice Bureau.

Notes for Creditors

This form must be served personally on the debtor by a sheriff officer or messenger-at-arms. An additional copy of the Demand should also be given to the debtor at the same time.

Insert name and address of debtor

Insert name and address of creditor

(a) Insert name and address of authorised person, but

**Delete if creditor is completing demand*

(b) Insert name of creditor

(c) Insert name of debtor

**Delete as appropriate*

(d) Insert amount of debt(s) claimed. The total of the debt(s) must not be less than £750.

(e) Describe the matters which led to the debt(s). If more space is needed please use a separate sheet of paper.

(f) Insert the reasons why it is claimed that the debt(s) forming the subject of the Demand are liquid. A debt is liquid where it is for a certain settled amount and is immediately payable by the debtor. There must also be clear evidence of the existence of the debt, for example, a written admission by the debtor or a document which establishes the debt (such as a court decree or contract).

The Demand

To _____

From _____

1. I, [(a) _____],

being a person authorised to act on behalf of]*

(b) _____
(the creditor) claim that as at the date of this Demand you

(c) _____
owe [me] [the creditor]* the sum of

(d) £ _____
(the sum demanded)

2. The sum demanded is in respect of (e)

3. The sum demanded is immediately payable and consists of a liquid debt or debts in that

(f) _____

4. If you believe

—that you do not owe the creditor the sum demanded or any part of it, or

—that you do not have to pay the sum demanded or any part of it immediately to the creditor

you must **IMMEDIATELY** fill in the **DENIAL SLIP** at the end of this form (or a copy of it) and post it, or a letter to the same effect to the creditor by **RECORDED DELIVERY POST** so as to arrive within 3 weeks after the date of service of this Demand on you (this date is shown in the Docquet of Service below).

5. If however you accept

—that you owe the creditor the sum demanded and

—that you have to pay the sum demanded immediately to the creditor

you must, within the 3 week period mentioned in paragraph 4 above, pay it to the creditor or find security for its payment.

6. If, within the 3 week period mentioned in paragraph 4 above, you have not taken the steps mentioned in either paragraph 4 or 5 above, you may be made bankrupt by the court, and your property and goods put into the hands of a trustee for the benefit of all your creditors.

**Delete whichever does not apply*

Signed _____
Creditor*/on behalf of creditor
Date _____

DOCQUET OF SERVICE

Note

This Docquet of Service should be completed by the messenger-at-arms or sheriff officer and witness at the time of serving the demand upon the debtor. The Docquet of Service on the duplicate demand, which is also to be given to the debtor, should also be completed.

(a) *Insert name of debtor*

(b) *Insert date of service. This is the date after which the period of 3 weeks mentioned in paragraphs 4-6 of the above Demand starts to run.*

(c) *Insert name and address of messenger-at-arms or sheriff officer*

**Delete whichever is inapplicable*

To (a) _____

You are served with the above Demand on (b) _____
by me,

(c) _____

in the presence of the witness who also signs below.

Signed _____
Messenger-at-Arms*/Sheriff
Officer

Date _____
 Name and address of witness in BLOCK
 LETTERS

 Signed _____
 Witness

NOTES FOR DEBTOR—READ CAREFULLY

1. If you do nothing in response to this Demand you could be made bankrupt. **Please do not ignore this form**
-
2. (a) If you deny that you owe the sum demanded or any part of it; or
 (b) If you accept that you owe the sum demanded but deny that you have to pay it or any part of it immediately (even though you may admit that you must pay it at some time),
- you must fill in the attached Denial Slip (or a copy of it) and post it, or a letter to the same effect, to the creditor by **RECORDED DELIVERY POST**. This should be done **immediately** and before the end of the 3 week period mentioned in paragraph 4 of the form. If you do not do so, you could be made bankrupt.
- You should keep a copy of what you send to the creditor and the recorded delivery slip.
-
3. If, however, you accept—
 (a) that you owe the sum demanded; and
 (b) that you have to pay the sum demanded immediately to the creditor,
- you should either pay the sum demanded or find security for such payment. If you cannot do either you should get in touch with the creditor **immediately** and try to agree with him a way of paying off the sum demanded perhaps by paying by instalments.
- Even if the creditor agrees that the sum demanded or any part of it need not be paid immediately to him, you should still send the **Denial Slip** as in Note 2 above, to protect you from the possibility of being made bankrupt.
-
4. If you are in any doubt as to—
 (a) whether you owe the sum demanded or any part of it; or
 (b) whether the sum demanded or any part of it must be paid immediately; or
 (c) whether any of the details mentioned in connection with the debt(s) in paragraphs 2 and 3 of the form are correct; or
 (d) about what you should do with this form or its implications,
- you should seek advice **immediately** from a solicitor or from a Citizens Advice Bureau.

DENIAL SLIP

To be completed in the circumstances described in paragraph 4 of the Demand Form or in the notes for Debtor 2 and 3.

Note You must fill in and sign this Denial Slip. Tear it off and post it **immediately** to the creditor by **RECORDED DELIVERY POST** to arrive within the 3 week period mentioned in paragraph 4 of the Demand Form.

(a) Insert name and address of creditor

To (a) _____

(b) Insert date of service of Demand as shown in the docquet of service

I refer to the demand served on me on
 (b) _____

*Delete if inapplicable

I DENY

(c) and (d)

*(c) that I owe you the sum demanded

Only delete (c) if you accept that you owe the whole of the sum demanded but retain (d) if you are denying that you have to pay that sum immediately

*(d) that I have to pay you the sum demanded immediately.

Signature of debtor

 Date _____

Name of debtor in BLOCK CAPITALS

Address of debtor

Form 2

OATH BY CREDITOR

Bankruptcy (Scotland) Act 1985: Section 11(1)

This oath must be sworn by the creditor or a person authorised to act on his behalf before a person entitled to administer the oath, eg. in the U.K. a Notary Public (usually a Solicitor) or a Justice of the Peace.

In the case of an oath administered outside the U.K. see section 11(2)(b) of the Act.

<p>(a) <i>Insert name and address of creditor</i></p> <p>(b) <i>If applicable, insert name and address of authorised person acting on behalf of creditor</i></p> <p><i>*Delete as appropriate</i></p> <p>(c) <i>Insert name and address of debtor</i></p> <p><i>*Delete as appropriate</i></p> <p>(d) <i>Insert total amount of the debt or debts amounting, in aggregate, to not less than £750.</i></p>	<p>(a) _____ _____ _____</p> <p>(b) _____ _____ _____</p> <p>I do solemnly and sincerely swear*/affirm that to the best of my knowledge and belief</p> <p>(c) _____ _____ _____</p> <p>owes me*/the creditor the sum of</p> <p>(d) £_____ which is now payable and that the particulars of the debt or debts making up that sum, which are set out overleaf, are correct.</p>
<p><i>*Delete as appropriate</i></p> <p>(e) <i>Insert name of place where oath is sworn</i></p> <p>(f) <i>Insert date</i></p> <p>(g) <i>Name and address and designation of person administering the oath or affirmation</i></p> <p><i>*Delete as appropriate</i></p>	<p>Sworn*/Affirmed at (e) _____ _____</p> <p>on (f) _____</p> <p>before (g) _____ _____ _____</p> <p>Signed _____ creditor*/on behalf of creditor</p> <p>Signature of person administering the oath*/affirmation _____</p>

PARTICULARS OF EACH DEBT*Notes*

A separate set of particulars should be made out in respect of each debt.

(1) Insert total amount of the debt which is now payable, showing separately the amount of principal and interest claimed. Interest may be claimed only where the creditor is entitled to it. Do not deduct the value of any security held at this stage (see Note 4).

(1) Amount of debt

(2) Specify what the debt is in respect of, the date or dates when it was incurred and when it became payable.

(2) Details of debt

(3) Attach any evidence of the debt, such as an extract decree (or copy of it certified by the Clerk of Court) or any voucher or other supporting evidence of the debt.

(3) Evidence of debt

(4) Specify the nature and value of any security held in respect of the debt or debts. For the purposes of the petition for sequestration, the value of any such security need not be deducted from the amount of the debt claimed.

(4) Security for debt

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".

Form 3

NOTICE BY THE INTERIM TRUSTEE IN THE EDINBURGH GAZETTE AND THE
LONDON GAZETTE

Bankruptcy (Scotland) Act 1985: Section 15(6)

<p><i>Notes</i></p> <p>(a) <i>Insert name of debtor</i></p> <p>(b) <i>Insert the name, designation and address of the debtor and, if he trades under a different name, state also his trading name and address</i></p> <p>(c) <i>Insert either "Court of Session" or "Sheriff"</i></p> <p>(d) <i>Insert name of sheriff court where applicable</i></p> <p>(e) <i>Insert date of award of sequestration</i></p> <p>(f) <i>Insert name, designation and business address of the interim trustee</i></p>	<p>Sequestration of the estate of (a) _____</p> <p>The estate of (b) _____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>was sequestrated by the (c) _____</p> <p>_____</p> <p>at (d) _____</p> <p>on (e) _____</p> <p>and (f) _____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>has been appointed by the court to act as interim trustee on the sequestrated estate.</p> <p>Any creditor of the debtor named above is invited to submit his statement of claim in the prescribed form, with any supporting accounts or vouchers, to the interim trustee.</p> <p>Any creditor known to the interim trustee will be notified of the date, time and place of the statutory meeting of creditors to elect a permanent trustee.</p> <p>Signature of interim trustee</p> <p>_____</p> <p>Date _____</p>
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Form 4

LIST OF THE ASSETS AND LIABILITIES OF THE DEBTOR

Bankruptcy (Scotland) Act 1985: Section 19(1)

WARNING TO THE DEBTOR

It is a criminal offence under section 19(2) of the Act for you, without reasonable excuse, to—

- fail to submit a list of your assets and liabilities to the interim trustee within 7 days of his appointment in the case where you petitioned for the sequestration of your own estate, or,
- fail, in any other case, to submit a list within 7 days of being notified of the appointment of the interim trustee;

- fail to disclose any material fact in the list; or

- make a material mis-statement in the list.

On summary conviction you may be liable to a maximum fine of £1,000 or to imprisonment for a maximum period of 3 months or to both.

(a) *Insert your name and address*

I (a)

(b) *Insert date of sequestration. In the case where you petitioned for the sequestration of your estate it is the date of the court order awarding that sequestration. In any other case, it is the date on which the court granted warrant to cite you to appear before it.*

have listed overleaf all my assets and liabilities as at the date of sequestration of my estate on (b) _____

I certify that the details in that list are true, complete and accurate to the best of my knowledge and belief.

Signature of debtor

Date _____

LIST OF ASSETS AND LIABILITIES*Notes for debtor*

1. You must list separately **all** your assets as at the date of sequestration of your estate and

(a) give a short description of each asset e.g. house, insurance policy, business assets etc.;

(b) state whether you own or lease each asset or what right you have to it. Also state whether it is held jointly with any other person, such as a house held jointly with your spouse;

(c) state whether the asset is subject to any security (e.g. a mortgage over your house) and give the amount of the debt secured by the security;

1. Assets

2. You must list separately all your debts and other liabilities as at the date of sequestration of your estate and

(a) give a short description of each debt and attach any relevant bills or accounts. If the creditor holds a decree or has arrested or done other diligence for the debt, attach any relevant papers and copy decrees etc.; and

(b) state the name and address of the creditor.

2. Liabilities

Use additional sheets of paper as necessary

Form 5

STATEMENT OF CLAIM BY CREDITOR

Bankruptcy (Scotland) Act 1985: Sections 22(2)(a) 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 he shows that he neither knew nor had reason to believe that it was false; or

. for a debtor who knows or becomes aware that it is false to fail to report it to the interim or permanent 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*(b) *Insert name and address of creditor*(c) *Insert name and address, if applicable, of authorised person acting on behalf of the creditor*(d) *Insert total amount claimed in respect of all the debts, the particulars of which are set out overleaf.***Delete as appropriate*

Sequestration of the estate of

(a) _____

_____(b) _____

_____(c) _____

I submit a claim of (d) £ _____ in the above sequestration and certify that the 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 _____

PARTICULARS OF EACH DEBT*Notes*

A separate set of particulars should be made out in respect of each debt.

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.

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 V.A.T. on the debt and indicate whether the V.A.T. is being claimed back from H.M. Customs and Excise.*

3. *Specify and give details of the nature of any security held in respect of the debt including—*

(a) the subjects covered and the date when it was given;

(b) the value of the security.

Note: The permanent 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 him on payment of the value specified by the creditor.

(c) whether the creditor is surrendering or undertakes to surrender the security.

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".

4. *In calculating the total amount of his claim, a secured creditor must deduct the value of any security as estimated by him, unless he surrenders it (see note 3(c) above).*

1. Particulars of debt**2. Amount of debt****3. Security for debt****4. Total amount of the debt**

Form 6

**NOTICE BY PERMANENT TRUSTEE IN THE EDINBURGH GAZETTE OF
CONFIRMATION IN OFFICE**

Bankruptcy (Scotland) Act 1985: Section 25(6)(b)

<p><i>Notes</i></p> <p>(a) <i>Insert name of debtor</i></p> <p>(b) <i>Insert name and address of permanent trustee</i></p> <p>(c) <i>Insert name and address of debtor</i></p> <p>(d) <i>Insert Sheriff Court</i></p> <p>(e) <i>Insert date</i></p>	<p>Sequestration of the estate of</p> <p>(a) _____</p> <p>I (b) _____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>give notice that I have been confirmed as permanent trustee on the sequestrated estate of (c)</p> <p>_____</p> <p>_____</p> <p>by the Sheriff at (d) _____</p> <p>_____</p> <p>on (e) _____</p> <p>Signature of permanent trustee</p> <p>_____</p> <p>Date _____</p>
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Form 7

**NOTICE BY PERMANENT TRUSTEE IN THE EDINBURGH GAZETTE OF PUBLIC
EXAMINATION OF THE DEBTOR OR A RELEVANT PERSON**

Bankruptcy (Scotland) Act 1985: Section 45(3)(a)

*Notes**(a) Insert name of debtor**(b) Insert name of Sheriff Court**(c) Insert name and address of person(s) to
be examined**(d) Insert address of place of examination**(e) Insert day, date and time of examina-
tion*Sequestration of the estate of *(a)*The Sheriff at *(b)* _____
has ordered that a public examination of*(c)* _____

_____will take place at *(d)* _____
_____on *(e)* _____
_____Signature of
permanent trustee

Date _____

Form 8

CERTIFICATE OF DISCHARGE OF DEBTOR

Bankruptcy (Scotland) Act 1985: Section 54(2)

Notes

The effect of this discharge is stated in Section 55 of the Act which is in the following terms:—

“55.—(1) Subject to subsection (2) below, on the debtor's discharge under section 54 of this Act, the debtor shall be discharged within the United Kingdom of all debts and obligations contracted by him, or for which he was liable, at the date of sequestration.

(2) The debtor shall not be discharged by virtue of subsection (1) above from—

(a) any liability to pay a fine or other penalty due to the Crown;

(b) any liability to forfeiture of a sum of money deposited in court under section 1(3) of the Bail etc. (Scotland) Act 1980;

(c) any liability incurred by reason of fraud or breach of trust;

(d) any obligation to pay aliment or any sum of an alimentary nature under any enactment or rule of law or any periodical allowance payable on divorce by virtue of a court order or under an obligation, not being aliment or a periodical allowance which could be included in the amount of a creditor's claim under paragraph 2 of Schedule 1 to this Act;

(e) the obligation imposed on him by section 64 of this Act.”

Section 64(1) of the Act requires the debtor to take every practical step, and in particular to execute any document, which may be necessary to enable the permanent trustee to perform the functions conferred upon him by the Act.

Notes

(a) *Insert name of debtor*

(b) *Insert name and address of debtor*

(c) *Insert date of sequestration*

**Delete whichever is inappropriate. A discharge is granted under or by virtue of section 54 where the debtor's estate was sequestrated on or after 1st April 1986 and under or by virtue of section 75(4) if it was sequestrated before that date.*

(d) *Insert date of discharge*

Sequestration of the estate of

(a) _____

I certify that (b) _____

whose estate was sequestrated on

(c) _____
was discharged under or by virtue of section 54*/75(4) of the Bankruptcy (Scotland) Act 1985 on

(d) _____

Signature of
Accountant in Bankruptcy

Date _____

Form 9

ACCEPTANCE OR REJECTION BY CREDITOR OF AN OFFER OF COMPOSITION

Bankruptcy (Scotland) Act 1985: Schedule 4 paragraph 4(c)

<p><i>Notes</i></p> <p>(a) <i>Insert name of debtor</i></p> <p>(b) <i>Insert name and address of permanent trustee</i></p> <p>(c) <i>Insert name and address of creditor</i></p> <p><i>*Delete whichever is inappropriate</i></p> <p>(d) <i>Insert name and address of debtor</i></p> <p>(f) <i>Insert date</i></p>	<p>Sequestration of the estate of</p> <p>(a) _____</p> <p>To (b) _____</p> <p>_____</p> <p>_____</p> <p>I (c) _____</p> <p>_____</p> <p>_____</p> <p>accept*/reject the offer of composition made by or on behalf of</p> <p>(d) _____</p> <p>_____</p> <p>_____</p> <p>which was summarised in the report which you sent me on (f) _____</p> <p>_____</p> <p>Signature of Creditor _____</p> <p>Date _____</p>
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*Form 10***NOTICE IN EDINBURGH GAZETTE BY TRUSTEE UNDER A TRUST DEED FOR THE
BENEFIT OF CREDITORS**

Bankruptcy (Scotland) Act 1985: Schedule 5 paragraph 5(b)

Notes

If within the 4 week period referred to in the notice a majority in number and not less than two thirds in value of the creditors accede to the trust deed and a certified copy of the trust deed is then sent by the trustee to the Accountant in Bankruptcy for registration in the Register of Insolvencies, then the trust deed will become a protected trust deed.

The effect of this is that paragraphs 6 and 7 of Schedule 5 to the Act will apply to the trust deed. Briefly, this has the effect of restricting the rights of non-acceding creditors and to confer certain protection upon the trust deed from being superseded by the sequestration of the debtor's estate.

Notes(a) *Insert name of debtor*(b) *Insert name, designation and address of debtor, and if he trades under a different name, state also his trading name and address*(c) *Insert date of granting of trust deed*(d) *Insert name and address of trustee*

Trust deed for creditors by

(a) _____

A trust deed has been granted by

(b) _____

on (c)

conveying his estate to me

(d) _____

as trustee for the benefit of his creditors generally.

In order that the trust deed may become a protected trust deed (see notes), all creditors of the debtor are invited to accede to the trust deed within 4 weeks of the date of publication of this notice in the Edinburgh Gazette.

Signature of trustee _____

Date _____

Form 11

**STATEMENT OF REALISATION AND DISTRIBUTION OF ESTATE UNDER A
PROTECTED TRUST DEED**

Bankruptcy (Scotland) Act 1985: Schedule 5 paragraph 9(a)

<p><i>Notes</i></p> <p>(a) <i>Insert name of debtor</i></p> <p>(b) <i>Insert name and address of debtor</i></p> <p>(c) <i>Insert date of trust deed</i></p>	<p>Protected trust deed of</p> <p>(a) _____</p> <p>The statement overleaf is a true and accurate account of my realisation and distribution of the estate of</p> <p>(b) _____ _____ _____</p> <p>under the trust deed granted in my favour for the benefit of his creditors dated</p> <p>(c) _____</p> <p>Signature of trustee _____</p> <p>Name and address _____ _____ _____</p> <p>Date _____</p>
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STATEMENT

<i>Notes</i>	Receipts
	<i>Item Book value Sum realised</i>
	Total sum realised £ _____
	Other receipts (e.g. Bank interest)
	Total receipts £ _____
<i>(a) Give details of all the expenses connected with the administration of the estate including your outlays and remuneration.</i>	Distribution of estate
<i>(b) Give details of any payments made to secured creditors.</i>	<i>(a) Administrative expenses</i>
<i>(c) Give details of any payments made to preferred creditors.</i>	<i>(b) Secured creditors</i>
	<i>(c) Preferred creditors</i>
<i>(d) State the rate of dividend paid, the total amount of the claims of ordinary creditors and the total amount paid to them. List in an annex the amounts paid to individual ordinary creditors and their claims.</i>	<i>(d) Ordinary creditors</i>
	A dividend of p. in the £ on claims lodged of , as per annex.
	Total sum distributed £ _____

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations prescribe matters which fall to be prescribed by the Secretary of State under the Bankruptcy (Scotland) Act 1985 (c.66) ("the Act").

The regulations come into operation on 1st April 1986, except for the purposes of regulations 3 and 4, which come into operation on 1st February 1986.

Regulations 3 and 4 set out the requirements to be satisfied by persons in order to be qualified to act as insolvency practitioners for the purposes of the Act until the coming into force of section 2 of the Insolvency Act 1985 (c.65).

Regulation 5 and the Schedule prescribe the forms required for the purposes of various provisions of the Act.

Regulation 6 prescribes the circumstances in which a creditor may state the amount of his claim in foreign currency and regulation 7 provides for the conversion of such foreign currency claims into Sterling.

Regulation 8 prescribes the rate of interest on preferred debts and ordinary debts between the date of sequestration and the date of payment of the debt.

Regulation 9 prescribes the minimum amount of the unsecured liabilities of the debtor for the purposes of the offence of failing to keep proper records.

Regulation 10 provides for the premium paid by an interim or permanent trustee for a bond of caution or other security to be taken into account as part of his outlays.

Regulation 11 amends the definition of "associate" in section 74 of the Act.

Regulation 12 prescribes the modifications which are to be made to the Act in its application to limited partnerships.

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