

SCHEDULE 1

Regulation 21

FORM 5

STATEMENT OF CLAIM BY CREDITOR

Bankruptcy (Scotland) Act 1985: Sections 22(2)(a) and 48

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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 details of any other proceedings in which a claim has been or is being submitted in respect of the debt in part of the debt and the amount claimed

(e) Insert total amount claimed in respect of all the debts, the particulars of which are set out overleaf.

Sequestration of the estate of

(a) _____

(b) _____

(c) _____

(d) _____

I submit a claim of (e) £
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 _____

Status: This is the original version (as it was originally made).

PARTICULARS OF EACH DEBT	
<i>Notes</i>	
<i>A separate set of particulars should be made out in respect of each debt.</i>	
<p><i>1. Describe briefly the debt, giving details of its nature, the date when it was incurred and when payment became due.</i></p> <p><i>Attach any documentary evidence of the debt, if available</i></p>	1. Particulars of debt
<p><i>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 VAT on the debt and indicate whether the VAT is being claimed back from HM Customs and Excise.</i></p>	2. Amount of debt
<p><i>3. Specify and give details of the nature of any security held in respect of the debt including</i></p> <p><i>(a) the subjects covered and the date when it was given;</i></p> <p><i>(b) the value of the security.</i></p> <p><i>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.</i></p> <p><i>(c) whether the creditor is surrendering or undertakes to surrender the security.</i></p> <p><i>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".</i></p>	3. Security for debt
<p><i>4. In the case of a member State liquidator creditor, specify and give details of underlying claims in respect of which he is claiming as creditor.</i></p> <p><i>Attach documentary evidence of debts.</i></p>	4. Underlying claims
<p><i>5. 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).</i></p>	5. Total amount of the debt

SCHEDULE 2

PART I

Rule 4.15 The Insolvency Act 1986 Form 4.7 (Scott)

Statement of Claim by Creditor

Pursuant to Rule 4.15(2)(a) of the Insolvency (Scotland) Rules 1986

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 director or other officer of the company who knows or becomes aware that it is false to fail to report it to the liquidator within one month of acquiring such knowledge.

On conviction either the creditor or such director or other officer of the company may be liable to a fine and/or imprisonment.

Notes

(a) *Insert name of company* _____

(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 as at the due date (see note (e) below) claimed in respect of all the debts, the particulars of which are set out overleaf.*

(e) *The due date in the case of a company*

(i) *which is subject to a voluntary arrangement is the date of a creditor's meeting in the voluntary arrangement;*

(ii) *which is in administration is the date of the administration order;*

(iii) *which is in receivership is the date of appointment of the receiver; and*

(iv) *which is in liquidation is the commencement of the winding up.*

The date of commencement of the winding up is

(i) *in a voluntary winding up the date of the resolution by the company for winding up (section 86 of 1986); and*

(ii) *in a winding up by the court, the date of the presentation of the petition for winding up unless it is preceded by a resolution for voluntary winding up (section 129).*

I submit a claim of (d) £ _____ in the liquidation of the above company 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 _____

Status: This is the original version (as it was originally made).

Rule 4.15

Form 4.7 (Scott) (contd)

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 amounts of the debt, showing separately the amount of principal and any interest which is due on the debt as at the due date (see note (e)). Interest may only be claimed if the creditor is entitled to it. Show separately the VAT on the debt and indicate whether the VAT is being claimed back from HM Customs and Excise.

3. Insert the nature and amount of any preference under Schedule 6 to the Act claimed in respect of the debt.

4. 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.

Security is defined in section 248(b) of the Insolvency Act 1986 as meaning “any security (whether heritable or moveable), any floating charge and any right of lien or preference and any right of retention (other than a right of compensation or set off)”. For claims in administration procedure security also includes a retention of title agreement, hire purchase agreement, agreement for the hire of goods for more than three months and a conditional sale agreement (see Rules 2.11 and 2.12).

In liquidation only the creditor should state whether he is surrendering or undertakes to surrender his security: the liquidator may at any time after 12 weeks from the date of commencement of the winding up (note (e)) require a creditor to discharge a security or to convey or assign it to him on payment of the value specified by the creditor.

1. **Particulars of debt**

2. **Amount of debt**

3. **Preference claimed for debt**

4. **Security for debt**

Status: This is the original version (as it was originally made).

5. In calculating the total amount of his claim in a liquidation, a creditor shall deduct the value of any security as estimated by him unless he surrenders it (see note 4). This may apply in administration (see Rule 2.11).

6. In the case of a member State liquidator-creditor, specify and give details of underlying claims in respect of which he is claiming as creditor.

5. **Total amount of the debt**

6. **Underlying claims**

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PART II

PART II

Rule 4.84

Form 4.30 (Scot)

Confirmation by Court of Creditors' Voluntary Winding up Application and Order (Title) (Registered No.)

- (a) Insert name of applicant
1. I (a)..... hereby make application to the court for confirmation of the creditors' voluntary winding up proceedings under Part IV of the Insolvency Act 1986 in relation to
- (b) Insert name of company
(b).....
- (c) Insert date of resolution
2. The resolution for voluntary winding up was passed on (c).....
- (d) Insert date
3. I was appointed liquidator of the company on (d).....
- (e) Insert whether main, secondary or territorial proceedings
4. I declare that the EC Regulation will apply and that these proceedings will be (e)..... proceedings as defined in Article 3 of the EC Regulation.

5. I attach the following documents required to accompany the application under Rule 4.84:
(a) copy of resolution for voluntary winding up
(b) evidence of my appointment as liquidator of the company
(c) copy of statement of affairs required under section 99

Affidavit

After sections 1 to 4 have been completed (and having the documents required under section 4 available), this affidavit must be sworn before a notary public or commissioner for oaths.

- (f) Insert name and occupation
I (f).....
.....
of (g).....
- (g) Insert full address
.....
.....
.....

swear that the contents of this application are to the best of my knowledge and belief true and that the documents exhibited hereto are all those required to accompany this application under Rule 4.84 and that they are true copies of the stated documents.

Signature of Applicant

Status: This is the original version (as it was originally made).

(b) Insert place SWORN at (b).....
th s day of (i).....
(c) Insert month and year before me (j).....
(i) Insert full name and address of Notary Public or Commissioner for Oaths Signature
(k) Notary Public/Commissioner for Oaths
(k) De.cets as applicable
(l) Insert date Upon reading the application dated (b) of
(m) Insert name of applicant (j)
and the evidence lodged in support

It is hereby confirmed by the court that the proceedings are creditors' voluntary winding up proceedings under Part IV of the Insolvency Act 1986

Date