

SCHEDULE 1 PROTECTION OF THE INDIVIDUAL

PART 5

BANKRUPTCY

Electronic service of documents

- 8 (1) The Interpretation and Legislative Reform (Scotland) Act 2010, in so far as it applies where the service of a document is authorised or required by or under the Bankruptcy (Scotland) Act 2016, applies in accordance with the modifications in this paragraph.
- (2) Section 26 (service of documents) has effect as if—
- (a) in subsection (2), for paragraph (c) there were substituted—
“(c) by being transmitted to the person electronically.”,
 - (b) subsection (3) were repealed,
 - (c) for subsection (6) there were substituted—
“(6) For the purposes of subsection (2)(c)—
 - (a) electronic transmission of a document must be effected in a way that the recipient has indicated to the sender that the recipient is willing to receive the document,
 - (b) the recipient’s indication of willingness to receive a document in a particular way may be—
 - (i) specific to the document in question or generally applicable to documents of that kind,
 - (ii) expressed specifically to the sender or generally (for example on a website),
 - (iii) inferred from the recipient having previously been willing to receive documents from the sender in that way and not having indicated unwillingness to do so again,
 - (c) the sender’s uploading of a document to an electronic storage system from which the recipient is able to download the document may constitute electronic transmission of the document.”.

Financial criteria for minimal asset process

- 9 (1) The Bankruptcy (Scotland) Act 2016 applies in accordance with the modifications in sub-paragraph (2).
- (2) Section 2 (sequestration of estate of living debtor) has effect as if—
- (a) in subsection (2)(b)(ii), for “£17,000” there were substituted “£25,000”,
 - (b) after subsection (2) there were inserted—
“(2A) For the purposes of subsection (2)(b), the amount of a loan made to the debtor is not to be regarded as a debt where the loan was made by virtue of regulations to which section 73B (regulations relating to student loans) of the Education (Scotland) Act 1980 applies.”.

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- (3) The modifications in sub-paragraph (2) apply in relation to a sequestration of a debtor's estate only where the date of the debtor application is on or after the date on which this paragraph comes into force.

Meaning of “qualified creditor”

- 10 (1) The Bankruptcy (Scotland) Act 2016 applies in accordance with the modifications in this paragraph.
- (2) Section 7(1) (qualified creditor and qualified creditors) has effect as if—
- (a) in the definition of “qualified creditor”, for “£3,000” there were substituted “£10,000”,
 - (b) in the definition of “qualified creditors”, for “£3,000” there were substituted “£10,000”.

Deadline for sending proposals for debtor's contribution

- 11 (1) The Bankruptcy (Scotland) Act 2016 applies in accordance with the modification in sub-paragraph (2).
- (2) Section 90(2) (period for sending initial proposals for the debtor's contribution) has effect as if for “6” there were substituted “12”.
- (3) The modification in sub-paragraph (2) applies in relation to a sequestration of a debtor's estate only where the date of award of sequestration is on or after the date on which this paragraph comes into force.

Virtual meetings of creditors

- 12 (1) The Bankruptcy (Scotland) Act 2016 applies in accordance with the modifications in this paragraph.
- (2) Part 2 (meetings of creditors) of schedule 6 has effect as if—
- (a) for paragraph 13 there were substituted—

“13 Every meeting must be held either—

 - (a) in such place (whether or not in the sheriffdom) as is, in the opinion of the person calling the meeting, the most convenient for the majority of the creditors, or
 - (b) by such electronic means as would, in the opinion of the person calling the meeting, be most convenient to allow the majority of the creditors to participate in the meeting without being together in the same place.

13A Where a meeting is to be held in pursuance of paragraph 13(b), the references in paragraphs 4 and 6 to the place fixed for the holding of the meeting are to be read as references to the electronic means by which attendees are to be able to attend the meeting without being together in the same place.”
 - (b) in paragraph 24—
 - (i) for “and place” there were substituted “, and at the same place or by the same electronic means,”,

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- (ii) for the words from “in” to “specified” there were substituted “the resolution otherwise specifies”.

Electronic signature of forms

- 13 (1) The Bankruptcy (Scotland) Regulations 2016 ([S.S.I. 2016/397](#)) apply in accordance with the modifications in this paragraph.
- (2) Regulation 3 (forms) has effect as if—
- (a) in paragraph (2)—
 - (i) the words “either” and “or” were repealed,
 - (ii) after sub-paragraph (b) there were inserted “; or
 - (c) in any case, an electronic signature.”,
 - (b) after paragraph (2) there were inserted—
 - “(3) In paragraph (2), “electronic signature” (except where it relates to Form 9) is to be construed in accordance with section 7(2) of the Electronic Communications Act 2000 (electronic signatures and related certificates), but includes a version of an electronic signature which is reproduced on a paper document.”.

Fees for debtor applications

- 14 (1) The Bankruptcy Fees (Scotland) Regulations 2018 ([S.S.I. 2018/127](#)) apply in accordance with the modifications in this paragraph.
- (2) The Regulations have effect as if after regulation 7 (other fees) there were inserted—

Temporary exemption from fees under Coronavirus (Scotland) (No.2) Act 2020

- “7A. Despite item 22 in Part 2 of the table of fees, no fee is payable to AiB under that item for the determination of a debtor application—
- (a) in relation to a debtor who, at the date of making the application, is in receipt of one or more of the following payments—
 - (i) universal credit under Part 1 of the Welfare Reform Act 2012;
 - (ii) another income-related benefit within the meaning given by section 191 of the Social Security Administration Act 1992;
 - (iii) jobseeker’s allowance under the Jobseekers Act 1995;
 - (iv) state pension credit under the State Pension Credit Act 2002;
 - (v) child tax credit under the Tax Credits Act 2002; or
 - (vi) employment and support allowance under Part 1 of the Welfare Reform Act 2007;
 - (b) in relation to a debtor who, at the date of making the application, is in receipt of working tax credit, provided that—
 - (i) child tax credit is being paid to the debtor, or otherwise following a claim for child tax credit made jointly by the members of a couple (as defined in section 3(5A) of the Tax Credits Act 2002) which includes the debtor; or
 - (ii) there is a disability element or severe disability element (or both) to the tax credit received by the debtor,

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and that the gross annual income taken into account for the calculation of the working tax credit is £18,000 or less; or

- (c) in relation to a debtor who, within the period of 3 months prior to the date of making the application, received financial or other assistance under the Welfare Funds (Scotland) Act 2015.”.

(3) Part 2 of the schedule (fees for other functions of the Accountant in Bankruptcy) has effect as if in item 22 of the table—

- (a) in paragraph (a), in column 2, for “£90.00” there were substituted “£50.00”,
- (b) in paragraph (b), in column 2, for “£200.00” there were substituted “£150.00”.