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SCOTTISH STATUTORY INSTRUMENTS

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**2016 No. 295**

**The Bankruptcy (Applications and  
Decisions) (Scotland) Regulations 2016**

**PART 4**

**Reference to court and review by Accountant in Bankruptcy**

**Reference to court: time limits**

- 20.** Where AiB has applied to refer or remit a matter to the court under the Act—
- (a) if the court (or a court on appeal from that court) makes any disposal which requires AiB to make an order, declaration or decision, the period allowed for the decision of AiB is the greater of—
    - (i) the unexpired days before the time limit set out in the Act for that decision would have elapsed (ignoring its reference or remit) after the date on which the reference or remit was made; or
    - (ii) 7 days;
  - (b) if the court's disposal has no such requirement, that time limit does not apply.

**Review applications**

**21.—**(1) An application for a review by AiB under the following provisions of the Act must be made in writing in Form 3—

- (a) section 27(5) (refusal of sequestration on debtor application);
- (b) section 37(1) (recall: only ground that debtor has paid or is able to pay debts in full);
- (c) section 39(5) (interim preservation);
- (d) section 52(4) (power of direction of trustee);
- (e) section 57(5) (interim trustee termination);
- (f) section 59(1) (Accountant in Bankruptcy interim trustee termination);
- (g) section 61(5) (appointment of replacement trustee);
- (h) section 64(5) (Accountant in Bankruptcy to account for intromissions);
- (i) section 65(4) (discharge of original trustee);
- (j) section 68(1) (trustee replacement in more than one sequestration);
- (k) section 71(1) (removal of trustee);
- (l) section 73(2) (removal - declaring vacancy);
- (m) section 92(1) (debtor contribution order);
- (n) section 97(1) (variation and payment break);
- (o) section 110(5) (contractual powers of trustee);

- (p) section 127(1) (adjudication of claims);
  - (q) section 139(1) (discharge);
  - (r) section 144(1) (discharge – subsequent contact);
  - (s) section 149(1) (discharge of trustee);
  - (t) section 151(4) (Accountant in Bankruptcy discharge as trustee);
  - (u) section 161(5) (refusal to revoke bankruptcy restrictions order);
  - (v) section 213(1) (curing defects); and
  - (w) paragraph 3(6) of schedule 2 (valuing contingent debts).
- (2) A review application must specify—
- (a) the decision to be reviewed and its date;
  - (b) the change sought to the decision; and
  - (c) the reasons for seeking that change.
- (3) When a review application is made to AiB, AiB must—
- (a) without delay send a copy to any person specified in the provision of the Act which provides for the review as a person to be notified, able to make representations or appeal against the review decision; and
  - (b) advise those persons that they have the period of 21 days beginning with the date specified in the Act to make representations to AiB.
- (4) Those representations must be made in writing by any means by which an application may be made (see regulation 4(1)).
- (5) On making a review decision under the relevant provision of the Act, AiB must notify the persons mentioned in paragraph (3)(a) of AiB’s decision.
- (6) Paragraphs (3) to (5) do not apply to the extent that equivalent provision is made in the Act.

**Review proceedings: staff of the Accountant in Bankruptcy**

**22.**—(1) No member of the staff of AiB who was involved in a decision under review may be involved in the review decision.

(2) If the Accountant in Bankruptcy herself or himself was involved in a decision under review, he or she must not be involved in any review decision (and is accordingly unable to exercise those functions in which case the Depute Accountant in Bankruptcy may act in accordance with section 199(2) of the Act).

**Review proceedings: persons assisting the Accountant in Bankruptcy**

**23.**—(1) In relation to a review application AiB may take account of the views of any independent person whom AiB appoints for that purpose.

(2) AiB may disclose information held about review applications to persons appointed under paragraph (1) to be used only for the purpose specified in that paragraph.

**Review decision**

**24.** The decision of AiB and a statement of reasons on the review application will be made publicly available.