
SCOTTISH STATUTORY INSTRUMENTS

2004 No. 534

**Act of Sederunt (Sheriff Court Bankruptcy
Rules) 1996 Amendment 2004**

Duty of creditor and court to be satisfied that no approved debt payment programme is in force

3. The Principal Rules shall be amended by inserting after rule 16–

“Duty of creditor and court to be satisfied that no approved debt payment programme within the meaning of section 2 of the Debt Arrangement and Attachment (Scotland) Act 2002 is in force or if in force the creditor is entitled to petition

17.—(1) Where a creditor is petitioning for the sequestration of a debtor, the creditor, at the lodging of the petition and immediately prior to the hearing to determine whether an award of sequestration is to be made in relation to the petition for sequestration, shall satisfy himself that at that date (a) the debtor is not subject to an approved debt payment programme, or (b) if there is an approved debt payment programme in force, the creditor is entitled to the remedy sought because the debt being founded on is not one covered by section 4(5) of the Debt Arrangement and Attachment (Scotland) Act 2002.

(2) Having satisfied himself at the times referred to in paragraph (1), the creditor shall at those times lodge a statement in the court to the effect that he has so satisfied himself; and the sheriff may not award sequestration in respect of such a petition unless such a statement has been lodged, or the court is otherwise satisfied that there is as of the date of the award of sequestration no such approved debt payment programme in force or there is a debt payment programme in force but the creditor is entitled to the remedy sought because the debt being founded on is not one covered by section 4(5) of the Debt Arrangement and Attachment (Scotland) Act 2002.

- (3) The statement referred to in paragraph (2) shall be in Form 19.

Duty of concurring creditor and court to be satisfied that no approved debt payment programme within the meaning of section 2 of the Debt Arrangement and Attachment (Scotland) Act 2002 is in force or if in force the creditor is entitled to concur in the petition

18.—(1) Where a creditor is concurring in a petition for the sequestration of a debtor, the creditor, when concurring shall satisfy himself that at that date (a) the debtor is not subject to an approved debt payment programme, or (b) if there is an approved debt payment programme in force, the concurring creditor is entitled to concur in the remedy sought because the debt being founded on is not one covered by section 4(5) of the Debt Arrangement and Attachment (Scotland) Act 2002.

(2) Having satisfied himself as referred to in paragraph (1), the concurring creditor shall make a statement for lodging in the court to the effect that he has so satisfied himself; and the sheriff may not award sequestration in respect of such a petition unless such a statement

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has been lodged, or the court is otherwise satisfied that there is as of the date of the award of sequestration no such approved debt payment programme in force or there is a debt payment programme in force but the creditor is entitled to concur in the remedy sought because the debt being founded on is not one covered by section 4(5) of the Debt Arrangement and Attachment (Scotland) Act 2002.

(3) The statement referred to in paragraph (2) shall be in Form 20.”.