
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 122

Act of Sederunt (Rules of the Court of
Session Amendment No. 3) (Bankruptcy and
Diligence etc. (Scotland) Act 2007) 2008

Bankruptcy

4.—(1) For Chapter 72 (Bankruptcy (Scotland) Act 1985)(1) substitute—

“CHAPTER 72

BANKRUPTCY (SCOTLAND) ACT 1985

Interpretation of this Chapter

72.1.—(1) In this Chapter, “the Act of 1985” means the Bankruptcy (Scotland) Act 1985(2).

(2) Unless the context otherwise requires, words and expressions used in this Chapter which are also used in the Act of 1985 have the same meaning as in that Act.

Applications for replacement of trustee under section 28A of the Act of 1985

72.2.—(1) An application under section 28A(2) of the Act of 1985(3) (replacement of trustee acting in more than one sequestration) shall include a list of the sequestrations to which the application relates.

(2) Where the court grants an application under section 28A(2) of the Act of 1985, the Accountant in Bankruptcy shall intimate a certified copy of the interlocutor of the court to—

(a) each sheriff who awarded sequestration or to whom the sequestration was transferred under section 15(2) of the Act of 1985(4) in the sequestrations to which the application relates; and

(b) any person appointed as the trustee under section 28A(2)(b)(i) of that Act.

(3) The court may make such other orders as it thinks fit for the intimation and advertisement of the appointment of a trustee under section 28A(2)(b) of the Act of 1985.

(4) For the purposes of paragraph (2), a certified copy interlocutor shall be taken to have been intimated to a sheriff where it is sent to the sheriff clerk of the court where the sheriff was sitting when he awarded the sequestration or when sequestration was transferred to him.

Remit of application under section 63(1) of the 1985 Act

72.3.—(1) An application under section 63(3)(b) of the Act of 1985 (application for a direction to remit an application under section 63(1)) shall be made by petition.

(1) Chapter 72 was amended by [S.S.I. 2004/514](#), [2005/268](#) and [2007/449](#).

(2) [1985 c. 66](#); amended by the [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#).

(3) Section 28A was inserted by the [Bankruptcy and Diligence etc. \(Scotland\) Act 2007](#), section 12.

(4) Section 15(2) was amended by the [Bankruptcy and Diligence etc. \(Scotland\) Act 2007](#), section 16(2).

(2) A copy of the application under section 63(1) of the Act of 1985 (application to sheriff to cure defects in procedure) certified by the sheriff clerk shall be lodged with any application under section 63(3)(b) of that Act.

(3) Where the court has determined an application under section 63(3)(b) of the Act of 1985, the applicant shall intimate a certified copy of the interlocutor of the court forthwith to—

- (a) the sheriff clerk; and
- (b) the Accountant in Bankruptcy.

(4) Where the court grants an application under section 63(3)(b) of the Act of 1985, the sheriff clerk shall, on receipt of a certified copy of the interlocutor of the court, transmit that application under section 63(1) of that Act, and those parts of the sequestration process in his custody, to the Deputy Principal Clerk.

(5) Where the court has determined the matters raised by the application under section 63(1) of the Act of 1985—

- (a) the applicant under section 63(3)(b) of that Act shall intimate a certified copy of the interlocutor of the court forthwith to—
 - (i) the sheriff clerk; and
 - (ii) the Accountant in Bankruptcy; and
- (b) the Deputy Principal Clerk shall transmit the parts of process transmitted to him under paragraph (4) to the sheriff clerk.

Register of insolvencies

72.4. The register of insolvencies maintained by the Accountant in Bankruptcy under section 1A(1)(b) of the Act of 1985⁽⁵⁾ shall contain the information set out in Form 72.4.”

(2) In the Appendix, for Forms 72.2A to 72.6-E substitute the Form 72.4 set out in the Schedule to this Act of Sederunt.

(3) But Chapter 72 of the Rules of the Court of Session 1994 as it applied immediately before 1st April 2008 continues to have effect in relation to any sequestration in respect of which the petition is presented before that date.

(5) Section 1A(1)(b) was amended by the Bankruptcy and Diligence etc. (Scotland) Act 2007, section 18(5) of and schedule 6.