
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for a Certificate for Sequestration of a debtor's estate to be granted by an authorised person who will certify that the debtor has demonstrated that he or she is not able to pay his or her debts as they become due under the Bankruptcy (Scotland) Act 1985 as amended by the Home Owner and Debtor Protection (Scotland) Act 2010.

An authorised person will be entitled to rely on statements and paperwork provided by the debtor in granting a certificate for sequestration. In particular, an authorised person is entitled to rely on the information provided by a debtor as to their financial circumstances as declared in the Certificate for Sequestration form set out in the Schedule to these Regulations.

In terms of Regulation 3(1)(a), insolvency practitioners are designated as persons authorised to grant a Certificate for Sequestration as are persons who work for an insolvency practitioner as defined in regulation 3(1)(a)(i), who have been given authority by that insolvency practitioner to act on behalf of that insolvency practitioner in the granting of a certificate of sequestration.

Regulation 3(1)(b) also includes persons approved for the purposes of the Debt Arrangement Scheme and persons working as money advisers for the organisations or persons listed in regulation 3(1)(b)(i), (iii) and (iv).

Regulation 7, and the form of the Certificate of Sequestration in the Schedule to these Regulations, refer to the prescribed period being 30 days ending on the date on which a debtor may make an application for sequestration. This is intended to allow the flexibility of the certificate and debtor application being signed on the same day.