
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the procedure for the making of applications to, and decisions by, the Accountant in Bankruptcy (“AIB”) under the Bankruptcy (Scotland) Act 1985 (“the 1985 Act”) as amended by the Bankruptcy and Debt Advice (Scotland) Act 2014.

They prescribe forms to be used in applying to AIB under the 1985 Act.

Regulations 3 to 7 make provision for general procedure to apply across different applications to AIB under the 1985 Act. They provide for how applications are made to AIB, including service of applications on other parties and the ability for AIB to make inquiries for further evidence or information.

Regulations 8 to 18 make particular procedural provision in relation to specific applications under the 1985 Act—

- section 3A(2) application to AIB for direction by trustee;
- section 17A application for recall where only ground that debtor has paid or is able to pay debts in full;
- section 25(3)(a) objection to statutory meeting appointing a replacement trustee (by persons other than AIB);
- section 28A(7)(a) to determine or appointment or replacement trustee acting in more than one sequestration;
- under section 29(1A)(a) and (6A)(a) removal of trustee from office by AIB;
- under section 42(2A)(b) extension of time limit for contractual powers of trustee;
- under section 56A(3) proposal to make bankruptcy restrictions order;
- under section 56E(3) to annul or vary a bankruptcy restrictions order;
- under section 59A(1) to convert a protected trust deed into sequestration;
- under section 63A a corrective order or to waive a time limit to cure a defect;
- where the Accountant puts a value on a debt under paragraph 3 of Schedule 1 to the Act.

Regulation 19 makes provision for time limits following a reference being made to the sheriff by AIB.

Regulations 20 to 22 provide for additional procedure in review proceedings before AIB. Staff involved in any initial decision of AIB under review must not be involved in review decisions (regulation 21). Review decisions of the AIB must be made public (regulation 22).

A Business and Regulatory Impact Assessment has been prepared for these Regulations. Copies can be obtained from the Accountant in Bankruptcy’s website: <http://www.aib.gov.uk>.