
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 149

**The Common Financial Tool etc. (Scotland)
Amendment Regulations 2015**

Citation and commencement

1. These Regulations may be cited as the Common Financial Tool etc. (Scotland) Amendment Regulations 2015 and come into force on 1st April 2015.

Amendment of the Common Financial Tool etc. (Scotland) Regulations 2014

2. The Common Financial Tool etc. (Scotland) Regulations 2014⁽¹⁾ are amended as follows.

Contingency allowance etc.

3.—(1) In regulation 3(1) (common financial tool), for “regulation 4” substitute “regulations 3A and 4”.

(2) For regulation 3(3) substitute—

“(3) The Accountant in Bankruptcy, the trustee on variation or removal under section 32F of the 1985 Act⁽²⁾, the court, or the trustee acting under a protected trust deed—

- (a) may allow an amount of expenditure to the debtor which exceeds those trigger figures if satisfied that the expenditure is reasonable; and
- (b) must allow the debtor to decide to retain an additional amount of income in accordance with regulation 3A towards contingencies which may arise.”.

(3) In regulation 3(4) and (9), for “paragraph (3)” substitute “paragraph (3)(a)”.

(4) After regulation 3 insert—

“Common financial tool: contingency allowance

3A.—(1) The amount of income which the debtor may decide to retain towards contingencies under regulation 3(3)(b) is—

- (a) up to 10% of the weekly, fortnightly or monthly (or the equivalent amount for another period) debtor’s contribution assessed under regulation 3, before any calculation is made under this regulation for the purposes of regulation 3(3)(b);
- (b) subject to a maximum amount of £4.62 per week, £9.23 per fortnight, £20 per month or the equivalent maximum for such other period, as the case may be.

(2) The amount to be retained under paragraph (1) must be treated as an item of expenditure for the purposes of the relevant form setting out the debtor’s expenditure in applying the common financial tool⁽³⁾.”.

⁽¹⁾ [S.S.I. 2014/290](#).

⁽²⁾ Inserted by section 4 of the 2014 Act.

⁽³⁾ Form 14 in the Bankruptcy (Scotland) Regulations 2014 ([S.S.I. 2014/225](#)); Form 2A in the Protected Trust Deeds (Scotland) Regulations 2013 ([S.S.I. 2013/318](#)), as amended by [S.S.I. 2014/290](#); and Form 1 of the Debt Arrangement Scheme (Scotland) Regulations 2011 ([S.S.I. 2011/141](#)), as amended by [S.S.I. 2014/294](#).

Minor amendments

- 4.—(1) In regulation 2(1) (interpretation) omit “—(1)”.
- (2) In regulation 3(2) (debtor’s expenditure and trigger figures)—
 - (a) for “The” substitute “Subject to paragraphs (3) and (7), the”; and
 - (b) for sub-paragraph (a) and (b) substitute—
 - “(a) the trigger figures for a reasonable amount of the debtor’s expenditure published from time to time as part of the Common Financial Statement; or
 - (b) the debtor’s expenditure over that period (for each relevant Common Financial Statement category of expenditure).”.
- (3) In regulation 3(11)(c) (common financial tool guidance), for “the Act” substitute “the 1985 Act”.
- (4) In regulation 4 (supporting statements and evidence)—
 - (a) in paragraph (2) for “Any statement” substitute “Any such statement”;
 - (b) after paragraph (2) insert—

“(2A) Paragraphs (1) and (2) do not apply to an application for review or appeal mentioned in paragraph (1) by an interested person other than the debtor or the trustee.”; and
 - (c) in paragraph (3)—
 - (i) after “Any statement” insert “for the purposes of assessment by the common financial tool”; and
 - (ii) for “the purposes of this regulation” substitute “those purposes”.
- (5) In regulation 7(5), for regulation 11(1)(h) of the Protected Trust Deeds (Scotland) Regulations 2013(4) (items to be sent for registration of trust deed) to be substituted, substitute—

“(h) where a debtor who is a living individual makes a contribution from income,—

 - (i) a statement that the amount of that contribution is in accordance with the common financial tool as assessed by the trustee; and
 - (ii) any evidence or explanation required in applying the common financial tool.”.
- (6) In regulation 8(1), for regulation 21(2A) of the Protected Trust Deeds (Scotland) Regulations 2013 (administration of trust: creditor objections) to be inserted, substitute—

“(2A) If the trustee receives within 21 days after the date on which the Form 4 was sent notification in writing from—

 - (a) a majority in number; or
 - (b) not less than one third in value,

of creditors that they object to the recommended course of action in the Form 4 where the expected final dividend to ordinary creditors is 20% lower than the expected dividend to ordinary creditors set out in the Form 3, the trustee must request a direction under regulation 19(3) as to how the trust must be administered.”.
- (7) In regulation 9 (remuneration for outlays before grant of trust deed) for “any specified heritable estate” substitute “any item of the debtor’s heritable estate specified or valued in such a valuation”.
- (8) In the Schedule—

- (a) in Note 2 to Form 3 (trust deed protection proposal and trustee's application) after "employed" insert "or engaged"; and
- (b) for Form 4 (trustee's statement of status of a protected trust deed) substitute the Form 4 set out in the Schedule to these Regulations.

St Andrew's House,
Edinburgh
25th March 2015

FERGUS EWING
Authorised to sign by the Scottish Ministers