
SCOTTISH STATUTORY INSTRUMENTS

2016 No. 397

The Bankruptcy (Scotland) Regulations 2016

PART 1

Money advisers

Persons who may not be approved money advisers

- 5.—(1) The following persons may not be a money adviser—
- (a) a sheriff officer or messenger-at-arms, or an employee of such a person;
 - (b) a person or body providing financial services, or financial advice other than money advice, in the course of a business or otherwise for profit, or an employee of such a person, unless the person is a—
 - (i) solicitor;
 - (ii) chartered or certified accountant;
 - (iii) a credit union registered under the Co-operative and Community Benefit Societies Act 2014⁽¹⁾ or the Industrial and Provident Societies Act 1965⁽²⁾ by virtue of section 1 of the Credit Unions Act 1979⁽³⁾;
 - (c) a person providing debt collection services, or an employee of such a person;
 - (d) a person convicted of an offence involving theft, fraud or other dishonesty;
 - (e) a person subject to a bankruptcy restrictions order (including an interim order) under section 155 or 160 of the Act⁽⁴⁾ or subject to a bankruptcy restrictions order, or bound by a bankruptcy restrictions undertaking, under schedule 4A of the Insolvency Act 1986⁽⁵⁾;
 - (f) a person in respect of whom a court has made a disqualification order under section 1, or who has had a disqualification undertaking accepted under section 1A, of the Company Directors Disqualification Act 1986⁽⁶⁾;
 - (g) persons without a licence from the Money Advice Trust⁽⁷⁾ to use the Common Financial Statement; or
 - (h) persons whose approval is revoked or suspended under paragraph (2).
- (2) AiB may revoke or suspend the approval of a money adviser who fails without good cause—

(1) 2014 c.14.

(2) 1965 c.12. Section 1 is relevantly amended and repealed subject to savings and transitional provisions by the Co-operative and Community Benefit Societies Act 2014 (c.14).

(3) 1979 c.34. Section 1 was amended by S.I. 1996/1189, 2001/2617 and 2538 and 2002/1501 and the Co-operative and Community Benefit Societies Act 2014 (c.14), schedule 4, subject to savings and transitional provisions specified in section 151 and schedule 5 of that Act.

(4) Bankruptcy restrictions undertakings for Scotland were repealed by section 52 of the 2014 Act, subject to transitional arrangements (see article 4(4) of S.S.I. 2014/261, amended by S.S.I. 2015/54).

(5) 1986 c.45. Schedule 4A was inserted by the Enterprise Act 2002 (c.40), schedule 20, paragraph 1.

(6) 1986 c.46, amended by the Insolvency Act 2000 (c.39), sections 5 and 6 and schedule 4, paragraph 2; the Enterprise Act 2002 (c.40), section 204(3) and the Small Business, Enterprise and Employment Act 2015 (c.26), schedule 7, paragraph 2.

(7) The Money Advice Trust is a company registered in England and Wales with registered number 4741583, registered charity in England and Wales registration number 1099506.

- (a) to apply the common financial tool in accordance with Part 3; or
 - (b) to comply with regulation 7.
- (3) AiB must provide written notice of the revocation or suspension to the money adviser (together with reasons for the decision to revoke or suspend).
- (4) AiB must provide written notice of the revocation or suspension to any debtor where it is known to AiB that the money adviser is acting as money adviser to that debtor.