



# Bankruptcy and Debt Advice (Scotland) Act 2014

2014 asp 11

*Sequestration where debtor has few assets*

## 5 Debtor application

- (1) In section 5 of the 1985 Act (sequestration of the estate of living or deceased debtor)—
- (a) in subsection (2)(a), after “subsection” insert “(2ZA) or”, and
  - (b) after subsection (2), insert—

“(2ZA) This subsection applies to the debtor where—

    - (a) the debtor—
      - (i) has been assessed by the common financial tool as requiring to make no debtor’s contribution, or
      - (ii) has been in receipt of a prescribed payment for a period of at least 6 months ending with the day on which the application is made,
    - (b) the total amount of the debtor’s debts (including interest) at the date the debtor application is made is—
      - (i) not less than £1500 or such other sum as may be prescribed, and
      - (ii) no more than £17000 or such other sum as may be prescribed,
    - (c) the total value of the debtor’s assets (leaving out of account any liabilities) on the date the debtor application is made does not exceed £2000 or such other amount as may be prescribed,
    - (d) the value of a single asset of the debtor does not exceed £1000 or such other amount as may be prescribed,
    - (e) the debtor does not own land,
    - (f) within the prescribed period, the debtor has been granted a certificate for sequestration of the debtor’s estate in accordance with section 5B,
    - (g) in the period of 10 years ending on the day before the day on which the debtor application is made or such other period as

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*Status: This is the original version (as it was originally enacted).*

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may be prescribed no award of sequestration has been made against the debtor in pursuance of an application made by the debtor by virtue of this subsection, and

- (h) in the period of 5 years ending on the day before the day on which the debtor application is made no award of sequestration has been made against the debtor in pursuance of—
  - (i) an application made by the debtor other than by virtue of this subsection, or
  - (ii) a petition.

(2ZB) For the purposes of subsection (2ZA)(c) and (d)—

- (a) any property of the debtor is not to be regarded as an asset if, under any provision of this or any other enactment, it would be excluded from vesting in the Accountant in Bankruptcy as trustee,
- (b) if the debtor reasonably requires the use of a vehicle, any vehicle owned by the debtor the value of which does not exceed £3000 or such other amount as may be prescribed is not to be regarded as an asset,
- (c) any other property of the debtor that is of a prescribed type is not to be regarded as an asset.

(2ZC) For the purposes of subsection (2ZA)(c) and (d), the Scottish Ministers may by regulations make provision about how the value of the debtor's assets is to be determined.

(2ZD) The Scottish Ministers may by regulations modify subsection (2ZA).

(2ZE) Schedule A1 to this Act makes further provision about the application of certain provisions of this Act in relation to a debtor to whom subsection (2ZA) applies.”.

- (2) Before Schedule 1 to the 1985 Act, insert the Schedule A1 set out in schedule 1 to this Act.