

*Draft Regulations laid before the Scottish Parliament under section 225(4)(a) of the Bankruptcy (Scotland) Act 2016 and section 62(4) of the Debt Arrangement and Attachment (Scotland) Act 2002, for approval by resolution of the Scottish Parliament.*

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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2016 No.**  
**INSOLVENCY**  
**BANKRUPTCY**  
**DEBT**

**The Bankruptcy (Scotland) Regulations 2016**

*Made* - - - - 2016  
*Coming into force* - - 30th November 2016

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 2(2)(a)(ii) and (f), 3(1), 4(1)(d) and (2)(b), 6(8), 8(3)(a), 9(4)(b), 19(1), 46(2)(a) and (6), 48(1)(a), 51(14), 54(4), 87(8), 89, 94(7), 113(5), 116(2), 117(1), 119(6)(a), 126(5), 129(10)(a), 137(2), 138(2), 140(2), 141(2)(a) and (c), 142(2) and (5), 200(1)(c) and (8), 221, 224(1), 225(2), 228(1), 234(3)(b) and paragraph 2(5)(a) of schedule 1 of the Bankruptcy (Scotland) Act 2016<sup>(1)</sup> (“the Act”), section 7(2)(bd) of the Debt Arrangement and Attachment (Scotland) Act 2002<sup>(2)</sup> (“the 2002 Act”) and all other powers enabling them to do so.

In accordance with section 225(4)(a) of the Act and section 62(4) of the 2002 Act<sup>(3)</sup>, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

**Citation and commencement**

**1.** These Regulations may be cited as the Bankruptcy (Scotland) Regulations 2016 and come into force on 30th November 2016.

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(1) [2016 asp 21](#) (“the Act”). Section 8(3)(a) is applied for the purposes of section 6, by section 6(9), of the Act. Section 228(1) of the Act contains definitions of “prescribed” and “statement of assets and liabilities” relevant to the exercise of the statutory powers under which these Regulations are made.

(2) [2002 asp 17](#), as amended by the Bankruptcy and Diligence etc. (Scotland) Act [2007 \(asp 3\)](#), sections 173, 209(1), 211 and 212 and schedule 4, paragraph 10, schedule 5, paragraph 30 and schedule 6, Part 1. Section 7(2)(bd) was inserted by the Bankruptcy and Debt Advice (Scotland) Act [2014 \(asp 11\)](#) (“the 2014 Act”), section 3(2).

(3) Section 62(4) was amended by the 2014 Act, schedule 3, paragraph 38(b) and has been modified by paragraph 5(2) of schedule 3 to the Interpretation and Legislative Reform (Scotland) Act [2010 \(asp 10\)](#) (“the 2010 Act”). The powers to make these Regulations are exercised together by virtue of section 33(2) and (3) of the 2010 Act.

## Interpretation

### 2.—(1) In these Regulations—

“the Act” means the Bankruptcy (Scotland) Act 2016;

“AiB” means the Accountant in Bankruptcy (with the meaning given by section 199 of the Act);

“Common Financial Statement” means the style and format for income and expenditure categories under that title (and, where relevant, related spread sheets, budget sheets, trigger figures, guidance materials and notes) published by the Money Advice Trust<sup>(4)</sup>;

“common financial tool” has the meaning given by section 89(1) of the Act (see regulations 14 to 16);

“debtor’s contribution” has the meaning given by section 89(1) of the Act; and

“the Keeper” means the Keeper of the Registers of Scotland.

(2) Any reference in these Regulations, except regulation 20, to anything done in writing or produced in written form includes a reference to an electronic communication, as defined in section 15(1) of the Electronic Communications Act 2000<sup>(5)</sup>, which has been recorded and is consequently capable of being reproduced.

## Forms

3.—(1) The forms set out in schedule 1 are the forms referred to in regulations 8, 12, 19, 20, 23, 24, 27 and 29, failing which they are prescribed for the purposes of the provisions of the Act referred to in the form.

(2) Any signature required as shown on a form set out in schedule 1 must be provided either by—

(a) a manuscript signature; or

(b) except in Forms 19 to 21, an image of a manuscript signature sent electronically.

## PART 1

### Money advisers

#### Approved categories of money advisers

4. Subject to regulation 5, the following classes of persons are prescribed for the purposes of section 4(2)(b) of the Act as money advisers—

(a) persons who—

(i) are qualified to act as insolvency practitioners in accordance with sections 390 of the Insolvency Act 1986<sup>(6)</sup> who are fully authorised, or partially authorised so to act in relation to individuals, within the meaning of 390A of that Act<sup>(7)</sup>; or

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(4) 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. Available at [www.cfs.moneyadvicetrust.org](http://www.cfs.moneyadvicetrust.org).

(5) 2000 c.7. Section 15(1) was amended by the Communications Act 2003 (c.21), section 406 and schedule 17, paragraph 158.

(6) 1986 c.45. Section 390 was amended by the Adults with Incapacity (Scotland) Act 2000 (asp 4), schedule 5, paragraph 18; the Insolvency Act 2000 (c.39), schedule 4, paragraph 16(2); the Enterprise Act 2002 (c.22), schedule 21, paragraph 4; S.S.I. 2005/465, schedule 1, paragraph 18(3); the Mental Capacity Act 2005 (c.9), schedule 6, paragraph 31(3), schedule 7; the Tribunals, Courts and Enforcement Act 2007 (c.15), schedule 20, paragraph 6; S.I. 2009/1941, schedule 1, paragraph 78(4); the Deregulation Act 2015 (c.20) (“the 2015 Act”), section 17(2) and the Small Business, Enterprise and Employment Act 2015 (c.26), section 115.

(7) Section 390A was inserted by the 2015 Act, section 17(3).

- (ii) work for such an insolvency practitioner, who have been given authority by that insolvency practitioner to act on his or her behalf in providing money advice under the Act; and
- (b) persons who—
  - (i) work as money advisers for organisations which have been awarded accreditation at Type 2 level or above against the Scottish National Standards for Information and Advice Provision; or
  - (ii) are approved for the purposes of the Debt Arrangement Scheme<sup>(8)</sup>; or
  - (iii) work as money advisers for a citizens advice bureau which is a full member of the Scottish Association of Citizens Advice Bureaux – Citizens Advice Scotland; or
  - (iv) work as money advisers for a local authority.

### 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<sup>(9)</sup> or the Industrial and Provident Societies Act 1965<sup>(10)</sup> by virtue of section 1 of the Credit Unions Act 1979<sup>(11)</sup>;
  - (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<sup>(12)</sup> or subject to a bankruptcy restrictions order, or bound by a bankruptcy restrictions undertaking, under schedule 4A of the Insolvency Act 1986<sup>(13)</sup>;
  - (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<sup>(14)</sup>;
  - (g) persons without a licence from the Money Advice Trust<sup>(15)</sup> to use the Common Financial Statement; or
  - (h) persons whose approval is revoked or suspended under paragraph (2).

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<sup>(8)</sup> Under Part 1 of the Debt Arrangement and Attachment (Scotland) Act 2002 ([asp 17](#)).

<sup>(9)</sup> 2014 c.14.

<sup>(10)</sup> 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).

<sup>(11)</sup> 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.

<sup>(12)</sup> 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).

<sup>(13)</sup> 1986 c.45. Schedule 4A was inserted by the Enterprise Act 2002 (c.40), schedule 20, paragraph 1.

<sup>(14)</sup> 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.

<sup>(15)</sup> 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.

- (2) AiB may revoke or suspend the approval of a money adviser who fails without good cause—
  - (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.

#### **Other matters on which a debtor must obtain advice**

6. The following are prescribed for the purposes of section 4(1)(d) of the Act as matters on which the debtor must obtain advice from a money adviser—

- (a) the income and expenditure of the debtor in accordance with the common financial tool;
- (b) the evidence required to confirm the debts of the debtor in making the debtor application;
- (c) the debt advice and information package<sup>(16)</sup>;
- (d) the options of a voluntary repayment plan, debt payment programme under the Debt Arrangement Scheme or a trust deed;
- (e) the consequences of sequestration and that an award of sequestration, if granted, is recorded in a public register and may result in one or more of—
  - (i) the debtor being refused credit, or being offered credit at a higher rate, whether before or after the date of the debtor being discharged;
  - (ii) the debtor not being able to remain in his or her current place of residence;
  - (iii) the debtor being required to relinquish property which the debtor owns;
  - (iv) the debtor requiring to make contributions from income for the benefit of creditors;
  - (v) damage to the debtor’s business interests and employment prospects;
  - (vi) the debtor still being liable for some debts;
  - (vii) the debtor’s past financial transactions being investigated; and
  - (viii) other restrictions or requirements imposed on the debtor as a result of the debtor’s own circumstances and actions.

#### **Money advice on debtor applications: procedure on evidence and information**

7.—(1) In advising under section 4 of the Act on a debtor application, a money adviser must obtain evidence of the debtor’s income and expenditure.

(2) A money adviser must retain records in relation to the advice given to the debtor (including the evidence obtained under paragraph (1)) in making a debtor application, for 2 years from the date on which the advice was given.

(3) A money adviser must provide as required by AiB, information about a debtor’s application (including evidence obtained under paragraph (1) or the debtor’s consent to the application).

#### **Certificate for sequestration: form and manner**

8.—(1) A certificate for sequestration granted in accordance with section 9 of the Act must be in Form 2.

(2) The certificate must be signed and dated to the effect provided in that form—

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<sup>(16)</sup> Referred to in section 3(2) of the Act and section 10(5) of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17).

- (a) by the money adviser; and
- (b) by the debtor.
- (3) The certificate must be printed on the headed notepaper—
  - (a) where the money adviser belongs to an organisation, of the organisation to which the money adviser belongs, or
  - (b) in other cases, of the money adviser.

#### **Certificate for sequestration: fee**

9. No fee is chargeable for granting a certificate for sequestration.

#### **Certificate for sequestration: prescribed period**

10. The time period prescribed for a granted certificate for sequestration for the purposes of section 2(2)(f) or (8)(e)(ii) of the Act is 30 days.

## PART 2

### Sequestration process

#### **Debt advice and information package**

11.—(1) Subject to paragraph (2), the time prescribed for the purposes of section 3(1) of the Act is not less than 14 days before the presentation of the petition and not more than 12 weeks before the presentation of the petition.

(2) Paragraph (1) (and so the requirement to provide the debtor with a debt advice and information package in that section) does not apply where it is averred that the address of the debtor is not known<sup>(17)</sup>.

#### **Debtor applications**

12.—(1) A debtor application to AiB—

- (a) in the case of an application by a living debtor, or by the executor (or a person entitled to be appointed executor) on the estate of a deceased debtor, must be in Form 1;
- (b) in the case of an application by an entity referred to in section 6(1) of the Act, must be in Form 3 accompanied by a statement of assets and liabilities in Form 4.

(2) Where in a debtor application the debtor nominates an insolvency practitioner to act as the trustee in the sequestration and the insolvency practitioner agrees to act, the application must be accompanied by the insolvency practitioner's written undertaking to act as the trustee in Form 12.

(3) The Accountant in Bankruptcy or Depute Accountant in Bankruptcy must daily sign a Schedule in Form 7 listing those debtors whose estates have been sequestrated that day, and must enter the Schedule into the register of insolvencies.

(4) AiB must notify in writing debtors in respect of whom an award of sequestration has been made without delay after the award of sequestration.

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<sup>(17)</sup> This regulation re-enacts, with modifications, regulation 7 of the Bankruptcy (Scotland) Regulations 2014 (S.S.I. 2014/225) ("the 2014 Regulations") as amended by S.S.I. 2015/80.

(5) Where AiB refuses to award sequestration, the Accountant in Bankruptcy or Depute Accountant in Bankruptcy must complete and sign a Form 8 in respect of the debtor and without delay send a copy to the applicant, or applicants, in the debtor application.

(6) Where AiB awards sequestration the certified notice of the determination to be sent by AiB to the Keeper for recording in terms of section 26(2) of the Act must be in Form 9 and the certification is to be by the Accountant in Bankruptcy, Depute Accountant in Bankruptcy or any other person authorised by the Accountant in Bankruptcy to certify the notice of the determination on behalf of the Accountant in Bankruptcy.

(7) A certified notice containing an electronic signature, in a form to be agreed between AiB and the Keeper, of a determination referred to in paragraph (6) may be sent by AiB to the Keeper electronically<sup>(18)</sup>.

**“Minimal Asset Process” debtors to whom section 2(2) of Act applies: prescribed payments**

**13.**—(1) The payments specified in paragraph (2) are prescribed for the purposes of section 2(2)(a)(ii) of the Act (criteria for sequestration where debtor has minimal assets).

(2) Where the debtor has no other income (than from any of these payments) at the date of making his or her debtor application—

- (a) universal credit under Part 1 of the Welfare Reform Act 2012<sup>(19)</sup>;
- (b) another income-related benefit (as defined in section 191 of the Social Security Administration Act 1992<sup>(20)</sup>);
- (c) an income-based jobseeker’s allowance, as defined by section 1(4) of the Jobseekers Act 1995<sup>(21)</sup>;
- (d) state pension credit under the State Pension Credit Act 2002<sup>(22)</sup>;
- (e) child tax credit under the Tax Credits Act 2002<sup>(23)</sup>; or
- (f) an income-related allowance under Part 1 of the Welfare Reform Act 2007<sup>(24)</sup> (employment and support).

**“Minimal Asset Process” debtors to whom section 2(2) of Act applies: total assets**

**14.** The amount of £2,000 is prescribed for the purposes of paragraph 2(5)(a) of schedule 1 of the Act (total value of debtor’s assets after date of debtor application for AiB duty to consider whether paragraph 1 of that schedule should cease to have effect).

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<sup>(18)</sup> This regulation re-enacts, with modifications, regulation 5 of the 2014 Regulations.

<sup>(19)</sup> 2012 c.5.

<sup>(20)</sup> 1992 c.5. This definition, and the relevant provisions are repealed by Part 1 of Schedule 14 to the Welfare Reform Act 2012 (c.5) subject to saving and transitional provisions.

<sup>(21)</sup> 1995 c.18, repealed by Part 1 of Schedule 14 to the Welfare Reform Act 2012 (c.5), subject to saving and transitional provisions.

<sup>(22)</sup> 2002 c.16.

<sup>(23)</sup> 2002 c.21.

<sup>(24)</sup> 2007 c.5.

## PART 3

### Debtor's contribution

#### Common financial tool

**15.**—(1) The specified method to be used to assess the debtor's contribution in accordance with paragraphs (2) to (11) and regulations 16 and 17 ("the common financial tool") is the Common Financial Statement.

(2) Subject to paragraphs (3) and (7), the debtor's contribution is to be the debtor's whole surplus income (assessed for instance weekly, fortnightly or monthly in accordance with the Common Financial Statement) in excess of the lower of—

- (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) AiB, the trustee on variation or removal under section 95 of the Act, 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 16 towards contingencies which may arise.

(4) In determining what is reasonable under paragraph (3)(a), evidence of why the expenditure is reasonable must be provided, or supplied by the debtor on request, to satisfy AiB, the trustee or court with regard to that evidence and any explanation provided.

(5) Insofar as the income and expenditure of any other person may be taken into account in the Common Financial Statement, if either income or expenditure is so taken into account, both the income and the expenditure of that person must be taken into account.

(6) In calculating the debtor's income where she or he is paid regularly by a period other than a week, fortnight or month, the debtor's income shall be the income for that period times such multiplier as converts the period into a year divided by 52, 26 or 12 as the case may be.

(7) If the debtor has income solely from social security benefits and tax credits, no contribution is due.

(8) If the expenditure amount so determined is less than the total amount of any income received by the debtor by way of guaranteed minimum pension (within the meaning of the Pension Schemes Act 1993<sup>(25)</sup>) that income amount shall be allowed instead.

(9) The expenditure amount determined under paragraph (3)(a) must be sufficient to allow for—

- (a) aliment for the debtor;
- (b) any obligation of aliment owed by the debtor ("obligation of aliment" having the same meaning as in the Family Law (Scotland) Act 1985<sup>(26)</sup>);
- (c) any obligation of the debtor to make a periodical allowance to a former spouse or former civil partner; and
- (d) any obligation of the debtor to pay child support maintenance under the Child Support Act 1991<sup>(27)</sup>.

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<sup>(25)</sup> 1993 c.48.

<sup>(26)</sup> 1985 c.37.

<sup>(27)</sup> 1991 c.48.

(10) The amount referred to in paragraph (9)(b) and (c) need not be sufficient for compliance with a subsisting order or agreement as regards the aliment or periodical allowance.

(11) Any person applying the common financial tool must have regard to guidance issued by AiB on—

- (a) the treatment of types of income and expenditure under paragraph (3);
- (b) how income and expenditure are to be verified by the money adviser and the trustee; and
- (c) the conduct of money advisers in carrying out their functions under the Act in relation to the common financial tool.

#### **Common financial tool: contingency allowance**

**16.**—(1) The amount of income which the debtor may decide to retain towards contingencies under regulation 15(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 15, before any calculation is made under this regulation for the purposes of regulation 15(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<sup>(28)</sup>.

#### **Common financial tool: supporting statements and evidence**

**17.**—(1) Any debtor application, initial proposals under section 90(2) of the Act, or application for review or appeal of the debtor’s contribution under section 92 or 97 of the Act must contain or be accompanied by a statement—

- (a) that the money adviser or trustee, as the case may be, assessed the debtor’s expenditure against the Common Financial Statement; and
- (b) explaining any instance in which those trigger figures are exceeded.

(2) Any such statement setting out expenditure in excess of the trigger figures must be accompanied by evidence of why any expenditure allowed that exceeds the trigger figures is reasonable.

(3) 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.

(4) Any statement for the purposes of assessment by the common financial tool that there has been a change in the debtor’s financial circumstances must be accompanied by evidence that the debtor’s circumstances were not as they were when last assessed for those purposes.

#### **Money Advice Trust licence requirements: report**

**18.** Where it appears to AiB that in using the Common Financial Statement to advise on completion of a debtor application a money adviser has contravened a licence requirement imposed by the Money Advice Trust, AiB may notify the Trust of that matter.

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(28) Form 1 in schedule 1; Form 2A in the Protected Trust Deeds (Forms) (Scotland) Regulations 2016 (S.S.I. 2016/[ ]); and Form 1 of the Debt Arrangement Scheme (Scotland) Regulations 2011 (S.S.I. 2011/141), as amended by S.S.I. 2014/294.



### **Debtor contribution orders**

- 19.**—(1) A debtor contribution order under section 90(1)(a) of the Act must be in Form 17.  
(2) A debtor contribution order under section 90(1)(b) of the Act must be in Form 18.

### **Deduction from debtor’s earnings and other income**

**20.**—(1) This regulation applies where an instruction to make deductions of specified amounts from the debtor’s earnings or other income and payments to the trustee of the amounts so deducted is given by a debtor or trustee under section 94(2) or (4) of the Act.

- (2) Except in the case of a subsequent variation under paragraph (7)—  
(a) an instruction given by the debtor under section 94(2) must be in Form 19; and  
(b) an instruction given by the trustee under section 94(4) must be in Form 20.
- (3) On delivery of the instruction and while the instruction is in effect, the—  
(a) person by whom the debtor is employed; or  
(b) third person required to pay to the trustee money otherwise due to the debtor by way of income (“third person”),

must deduct the sum specified in the instruction on every pay day or day on which a payment is to be made to the debtor, as the case may be, and pay the sum deducted to the trustee as soon as it is reasonably practicable to do so.

(4) Where an employer or third person fails without good cause to make a payment due under an instruction, the employer or third person is—

- (a) liable to pay on demand by a trustee the amount that should have been paid; and  
(b) not entitled to recover from a debtor the amount paid to the debtor in breach of the instruction.

(5) An employer or third person may on making a payment due under an instruction charge a fee equivalent to the fee chargeable for the time being under section 71 of the Debtors (Scotland) Act 1987<sup>(29)</sup> (employer’s fee for operating diligence against earnings) and deduct that fee from the balance due to the debtor.

(6) The trustee must, without delay after the end of the payment period for the debtor under section 91 of the Act, notify in writing any person who has received an instruction in accordance with paragraph (2) (or varied in accordance with paragraph (7)) that the instruction has been recalled.

(7) Following any change to the debtor’s contribution, the debtor or trustee may give a variation instruction under section 94(2) or (4) of the Act in accordance with that change to the instruction mentioned in paragraph (2) in Form 21 to the employer or third person.

## **PART 4**

### **Administration of sequestration**

#### **Claims in foreign currency**

**21.** A creditor may state the amount of that creditor’s claim in a foreign currency for the purposes of section 46(6) or 125(1) of the Act—

- (a) where the claim is constituted by decree or other order made by a court ordering the debtor to pay to the creditor a sum expressed in a foreign currency; or

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(29) 1987 c.18. A sum was specified in S.S.I. 2006/116.

- (b) where the claim is not so constituted, it arises from a contract or bill of exchange in terms of which payment is or may be required to be made by the debtor to the creditor in a foreign currency<sup>(30)</sup>.

### Conversion of foreign currency claims

**22.** For the purposes of sections 48(1)(a) and 126(5) of the Act, the manner of conversion into sterling of the amount of a claim stated in foreign currency is to be at a single exchange rate of for that currency determined by the trustee with reference to the exchange rates prevailing at the close of business on the date of sequestration<sup>(31)</sup>.

### Trustee resignation application

**23.** An application under section 69(1) of the Act by a trustee for authority to resign must be in Form 14<sup>(32)</sup>.

### Abandonment of heritable property by trustee

**24.—**(1) Where a trustee in sequestration has abandoned to the debtor any heritable property, notice of abandonment for the purposes of section 87(8) of the Act must be—

- (a) where the trustee is not AiB, in Form 15; or
- (b) where AiB is the trustee, in Form 16.

(2) Where AiB records a certified copy notice of abandonment under section 87(9) of the Act, it may be sent electronically to the Keeper containing an electronic signature in a form to be agreed between AiB and the Keeper.

(3) The Accountant in Bankruptcy, Depute Accountant in Bankruptcy or any other person authorised by the Accountant in Bankruptcy must certify such a copy on behalf of AiB<sup>(33)</sup>.

### Financial education

**25.** The course of financial education prescribed for the purposes of section 117(1) of the Act is—

- (a) the Scottish Financial Education Module learning materials divided into sections and published under that title by Money Advice Scotland<sup>(34)</sup>; or
- (b) all of the sections of that Module except for any section where the debtor's circumstances indicate the debtor does not require financial education on the topic of that section, in relation to any of the following topics—
  - (i) budgeting and financial planning;
  - (ii) saving;
  - (iii) borrowing;
  - (iv) insurance;
  - (v) tax;
  - (vi) financial life stages (financial considerations in relation to renting or buying a home, having a baby and loss of employment);

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<sup>(30)</sup> This regulation re-enacts, with modifications, regulation 10 of the 2014 Regulations.

<sup>(31)</sup> This regulation re-enacts, with modifications, regulation 11 of the 2014 Regulations.

<sup>(32)</sup> This regulation re-enacts regulation 12 of the 2014 Regulations.

<sup>(33)</sup> This regulation re-enacts regulation 13 of the 2014 Regulations.

<sup>(34)</sup> Money Advice Scotland is a company registered in Scotland with registered number SC137717, registered charity in Scotland registration number SC005663. The Scottish Financial Education Module is available at <http://www.moneyadvicescotland.org.uk/>.

(vii) welfare benefits.

#### **Interest on claims in sequestration**

**26.** The prescribed rate of interest for the purposes of section 129(10)(a) of the Act (interest on preferred debts and ordinary debts between the date of sequestration and the date of payment of the debt) is 8 per cent per annum<sup>(35)</sup>.

#### **Certificate of deferral of debtor's discharge**

**27.** A certificate deferring indefinitely the discharge of the debtor under section 141(4)(b) or (6) of the Act (where the debtor cannot be traced) must be in Form 30<sup>(36)</sup>.

#### **Premium of bond of caution**

**28.** Any premium (or a proportionate part of any premium) of any bond of caution or other security required to be given by an insolvency practitioner in respect of the practitioner's actings as interim trustee or trustee in any sequestration in which the practitioner is elected or appointed may be taken into account as part of that practitioner's outlays in that sequestration<sup>(37)</sup>.

## **PART 5**

### **Moratorium on diligence**

#### **Moratorium on diligence: notice of intention to apply**

**29.—(1)** A notice given by a person for the purposes of section 195(1) of the Act (notice of intention to make debtor application, protect trust deed or apply to the Debt Arrangement Scheme) must be in Form 33.

**(2)** A notice given by a person for the purposes of section 196(1) of the Act (notice of intention to apply: sequestration of estate under section 6) must be in Form 34.

## **PART 6**

### **Register of Insolvencies**

#### **Register of Insolvencies**

**30.—(1)** The register of insolvencies maintained by AiB under section 200(1)(c) of the Act is to be in the form specified in schedule 2.

**(2)** Information need not be included in the register of insolvencies where AiB is of the opinion that inclusion of the information would be likely to put any person at risk of violence or otherwise jeopardise the safety or welfare of any person.

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<sup>(35)</sup> This regulation re-enacts regulation 18 of the 2014 Regulations.

<sup>(36)</sup> This regulation re-enacts regulation 19 of the 2014 Regulations.

<sup>(37)</sup> This regulation re-enacts regulation 20 of the 2014 Regulations.

## PART 7

### Limited partnerships

#### **Application of Bankruptcy (Scotland) Act 2016 to limited partnerships**

**31.**—(1) The application of the Act to the sequestration of the estate of a limited partnership is subject to the modifications specified in this regulation.

(2) Any reference in the Act or in legislation made under it (unless the context suggests otherwise) to a partnership (other than in section 6(1)) or to a firm shall be construed as including a reference to a limited partnership.

(3) In the application of section 15 of the Act (jurisdiction) to limited partnerships—

- (a) AiB has jurisdiction if a limited partnership is registered in Scotland and has a place of business in Scotland; and
- (b) the sheriff has jurisdiction if a limited partnership is registered in Scotland and has a place of business within the sheriff's sheriffdom.

(4) Without prejudice to the provisions of sections 26(1), 27(11) and 30(9) of the Act, the sheriff clerk must send a copy of every court order mentioned in those sections to the Registrar of Limited Partnerships in Scotland.

(5) In the case of a debtor application by a limited partnership, AiB must send a copy of the determination to the Registrar of Limited Partnerships in Scotland<sup>(38)</sup>.

## PART 8

### Revocations and sequestrations and trust deeds before 30th November 2016

#### **Revocations**

**32.** The Regulations specified in schedule 3 are revoked to the extent mentioned in the second column of that schedule, subject to regulation 33.

#### **Sequestrations and trust deeds before 30th November 2016**

**33.** These Regulations have no effect in relation to—

- (a) sequestrations as regards which the petition was presented or the debtor application was made before, or
- (b) trust deeds executed before,

30th November 2016.

#### **Moratorium on diligence: notice of intention to apply under Bankruptcy (Scotland) Act 2016**

**34.** For the avoidance of doubt, notice given under section 4A or 4B of the Bankruptcy (Scotland) Act 1985 before 30th November 2016 is treated as validly given after that date notwithstanding that it refers to an application for sequestration under the Bankruptcy (Scotland) Act 2016 rather than under that Act of 1985.

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(38) This regulation re-enacts regulation 8 of the 2014 Regulations.

St Andrew's House,  
Edinburgh  
Date

*Name*  
Authorised to sign by the Scottish Ministers

## SCHEDULE 1

Regulation 3

## FORMS

*LIST OF FORMS TO BE USED*

<i>Form</i>	<i>Purpose</i>	<i>Relevant provisions of the Act</i>	<i>Relevant provision of the Regulations</i>	<i>Form consolidated</i>
1	Debtor Application	Sections 2(1)(a), 5(a), 8(3)(a), 224(3)(c) and 228(1)	Regulation 12(1)(a)	<i>Form 14</i>
2	Certificate for sequestration	Section 9	Regulation 8(1)	<i>S.S.I. 2010/397, amended by S.S.I. 2014/296.</i>
3	Debtor Application (Trust, Partnership etc.)	Sections 6(3)(a), (4)(b) and (7)(a) and 8(3)(a) and 228(1)	Regulation 12(1)(b)	<i>Form 15</i>
4	Statement of Assets and Liabilities (Trusts, Partnerships etc.)	Sections 6(9), 8(3)(a) and 228(1)	Regulation 12(1)(b)	<i>Form 16</i>
5	Statutory Demand for Payment of Debt	Section 16(1)(i)	Regulation 3	<i>Form 2</i>
6	Oath By Creditor	Section 19(1)	Regulation 3	<i>Form 3</i>
7	Form of Schedule of Award of Sequestration on Application by Debtor or Executor	Section 22(1) and (2)	Regulation 12(3)	<i>Form 18</i>
8	Form of Refusal of Award of Sequestration	Section 22	Regulation 12(5)	<i>Form 19</i>
9	Notice of Award of Sequestration to the Keeper	Section 26(2)	Regulation 12(6)	<i>Form 20</i>
10	Statement of Assets and Liabilities  Petition by creditor or trustee under a trust deed	Section 41(2) and 228(1)	Regulation 3	<i>Form 4</i>
11	Statement of Claim by Creditor	Sections 46(2)(a) and 122(9)(a)	Regulation 3	<i>Form 5</i>

<i>Form</i>	<i>Purpose</i>	<i>Relevant provisions of the Act</i>	<i>Relevant provision of the Regulations</i>	<i>Form consolidated</i>
12	Form of Undertaking to act as Trustee in Sequestration on the Application of a Debtor	Section 51(8) and (9)	Regulation 12(2)	<i>Form 17</i>
13	Statement of Undertakings	Sections 8(3) (b), 51(14), 54(4) and 228(1)	Regulation 3	<i>Form 1</i>
14	Trustee Application for Authority to Resign Office as Trustee in Sequestration	Section 69(1)	Regulation 23	<i>Form 21</i>
15	Notice of Abandonment of Heritable Property by Trustee in Sequestration where Accountant in Bankruptcy not the Trustee	Section 87(8)	Regulation 24	<i>Form 22</i>
16	Notice of Abandonment of Heritable Property where the Accountant in Bankruptcy is the Trustee	Section 87(8)	Regulation 24	<i>Form 23</i>
17	Debtor Contribution Order (Debtor Application)	Section 90(1) (a)	Regulation 19	<i>Form 24</i>
18	Debtor Contribution Order (Petition for Sequestration)	Section 90(1) (b)	Regulation 19	<i>Form 25</i>
19	Deduction from Income – Debtor’s payment instruction to employer or third person	Section 94(2) and (7)(a)	Regulation 20(2)(a)	<i>S.S.I. 2014/296, Form 1</i>
20	Deduction from Income – Trustee’s payment instruction to employer or third person	Section 94(4) and (7)(a)	Regulation 20(2)(b)	<i>S.S.I. 2014/296, Form 2</i>
21	Deduction from Income – Payment variation instruction to employer or third person	Section 94(2), (4) and (7)(a)	Regulation 20(7)	<i>S.S.I. 2014/296, Form 3</i>
22	Notice of Proceedings by Trustee to Obtain Authority in Relation to Debtor’s Family Home	Section 113(4) and (5)	Regulation 3	<i>Form 26</i>
23	Debtor’s Account of Current State of Affairs	Section 116(2)	Regulation 3	<i>Form 27</i>
24	Notice by Trustee: Public Examination of the Debtor or a Relevant Person	Section 119(6)(a)	Regulation 3	<i>Form 6</i>
25	Debtor Certificate of Discharge (where Accountant in Bankruptcy not the trustee)	Section 137(2)	Regulation 3	<i>Form 7</i>
26	Debtor Certificate of Discharge (where Accountant in Bankruptcy is the trustee)	Section 138(2)	Regulation 3	<i>Form 8</i>

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

<i>Form</i>	<i>Purpose</i>	<i>Relevant provisions of the Act</i>	<i>Relevant provision of the Regulations</i>	<i>Form consolidated</i>
27	Debtor Certificate of Discharge (debtor to whom section 2(2) applies)	Section 140(2)	Regulation 3	<i>Form 9</i>
28	Deferral Notice	Section 141(2)(a)	Regulation 3	<i>Form 10</i>
29	Application for Deferral	Section 141(2)(c)	Regulation 3	<i>Form 11</i>
30	Certificate of Deferral of Discharge	Section 141(4)(b) or (6)(b)	Regulation 27	<i>Form 28</i>
31	Trustee Application for Authority to Resign Office: debtor not traced	Section 142(2)	Regulation 3	<i>Form 12</i>
32	Notice granting Trustee Authority to Resign Office	Section 142(5)	Regulation 3	<i>Form 13</i>
33	Moratorium – Notice of Intention to Apply	Section 195(1)	Regulation 29	<i>Form 29</i>
34	Moratorium – Notice of Intention to Apply (Trust, Partnership, etc.)	Section 196(1)	Regulation 29	<i>Form 30</i>



Form 1  
**Debtor Application**  
Bankruptcy (Scotland) Act 2016  
Section 2(1)(a) and 5(a)

**Section 1 – Who are you?**

I am the debtor applying for my own bankruptcy   
(Go straight to section 3)

I am the recognised executor of a deceased debtor's estate or,   
I have Power of Attorney with the authority to apply for bankruptcy or,  
I am the legal guardian of the debtor with authority to apply  
(Please complete your own details below in section 2)

**Section 2 – Executor/Legal Guardian/Power of Attorney's Details**

2.1	Title (Mr/Mrs/Miss/Ms or other title)	<input type="text"/>
	Surname	<input type="text"/>
	First and middle names	<input type="text"/>
2.2	Date of Birth	<input type="text"/>
2.3	Home address (house name/number & street)	<input type="text"/>
	Town	<input type="text"/>
	County	<input type="text"/>
	Postcode	<input type="text"/>
	Contact telephone number	<input type="text"/>
	Mobile telephone number	<input type="text"/>
	E-mail address	<input type="text"/>
	Relationship to the deceased person/debtor	<input type="text"/>

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### Section 3 – Qualifying Criteria

#### Minimal Asset Process

You may be eligible to apply for bankruptcy under MAP. However there are certain criteria that you must meet before being considered eligible.

3.1 I confirm that:

- a I have debts (including interest) totalling £1,500 or more but not exceeding £17,000.
- b The total value of my non-essential assets is not more than £2000.
- c I do not own a single non-essential asset with an individual value of more than £1,000.
- d I do not jointly or solely own any land or buildings.
- e I have not been made bankrupt in Scotland in the last 5 years
- f I have not been made bankrupt under MAP in the last 10 years.
- g I am not currently subject to a Protected Trust Deed.
- h I have been assessed by the Common Financial Tool as requiring to make no debtor's contribution or I have been in receipt of a prescribed payment for a period of at least 6 months ending with the day on which this application is made.
- i I have a certificate for sequestration dated no more than 30 days before the date this application is signed and dated by me.

**ONLY** if you meet **ALL** the criteria above can you apply for MAP bankruptcy. If you do not meet all the criteria above please refer to the criteria overleaf for Full Administration bankruptcy.

**PLEASE NOTE:** If you apply for MAP bankruptcy and are then found not to be eligible, your application will NOT be considered until any further fee for a Full Administration bankruptcy application is paid at which point your case will be considered for Full Administration bankruptcy.

If you meet the above criteria for MAP bankruptcy then please go direct to section 4

### Section 3 (continued) – Qualifying Criteria

#### Full Administration Bankruptcy (only to be completed if not eligible for MAP)

3.2 I confirm that:

- a I have debts (including interest) of £3,000 or more.
- b I have not been made bankrupt in Scotland in the past 5 years.
- c I am not currently subject to a Protected Trust Deed.

3.3 Do you have a certificate for sequestration signed by an authorised person?

YES  NO

If "YES" is the certificate dated no more than 30 days before the date you complete, sign and date this application?

YES  NO

3.4 Have you ever taken part in a debt payment programme (DPP) under the Debt Arrangement Scheme (DAS)?

YES  NO

If "YES" has the DPP been revoked?

YES  NO

Has any creditor taken further action against you regarding any debts in your DPP?

YES  NO

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**Section 3 (continued) – Qualifying Criteria**

- 3.5 Have you ever signed a trust deed? YES  NO   
If "YES" did your trust deed fail to become protected? YES  NO

**If you have ticked "YES" the letter from your trustee must be enclosed with your application.**

- 3.6 Have you been served with a Charge for Payment YES  NO   
If "YES" is the debt still unpaid? YES  NO   
If "YES" is the date on which the Charge for Payment was served on you at least 15/29\* (delete as appropriate) days prior to you completing, signing and dating this application? YES  NO

**If you have ticked "YES" the Charge for Payment must be enclosed with your application.**

- 3.7 Have you been served with a Statutory Demand? YES  NO   
If "YES" is the debt still unpaid? YES  NO   
If "YES" is the date on which the Statutory Demand was served on you at least 22 days prior to you completing, signing and dating this application? YES  NO

**If you have ticked "YES" the Statutory Demand must be enclosed with your application.**

**IMPORTANT**

**If you do not include the relevant document with your application we may not be able to process your application. It may be rejected and the fee paid will not be refunded.**

#### Section 4 - Current and previous bankruptcy status

- 4.1 Are you **CURRENTLY** bankrupt (or the equivalent) in any country outside Scotland? YES  NO

If you have answered "YES" please confirm the name of the country and date you were made bankrupt.

Country \_\_\_\_\_

Date \_\_\_\_\_

- 4.2 Have you **PREVIOUSLY** been made bankrupt (or the equivalent) in any country outside Scotland? YES  NO

If you have answered "YES" please confirm the name of the country and date you were made bankrupt.

Country \_\_\_\_\_

Date \_\_\_\_\_

Name (if different from current) \_\_\_\_\_

- 4.3 Have you lived outside Scotland at any time during the last 5 years? YES  NO

If you have answered "YES" please confirm the name of the country and date(s) you lived there.

Country \_\_\_\_\_

Date(s) \_\_\_\_\_

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**Section 5 – Debtor's details**

5.1 Title (Mr/Mrs/Miss/Ms or other title)

Surname

First and middle names

Any other names you are known as

Surname/maiden name before marriage (if applicable)

5.2 Date of Birth

5.3 Home address (house name/number & street)

Town

County

Postcode

Type of property

How long have you lived at this address?   years   months

Contact telephone number

Mobile telephone number

E-mail address

5.4 Application made under:

- 1. Apparent Insolvency
- 2. MAP
- 3. Certificate for Sequestration

### Section 6 – Employment details

- 6.1 Are you or have you ever been the owner or director of a company/business? YES  NO
- 6.2 Are you or have you ever been self-employed? YES  NO

If you have answered “YES” to either of the questions above then please complete the details below.

Name of company/business	<input type="text"/>
Company number as registered at companies house (if applicable)	<input type="text"/>
Trading address	<input type="text"/>
Town	<input type="text"/>
Postcode	<input type="text"/>
Role in the company/business (if applicable)	<input type="text"/>
Dates trading (from and to)	<input type="text"/>
Pay Period	<input type="text"/>
Gross Pay	<input type="text"/>

Do you hold a Premises Licence under the Licensing (Scotland) Act 2005 YES  NO

Please provide any further relevant trading information in the box below.

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

**Section 6 (continued) – Employment details**

6.3 Are you currently self-employed? YES  NO

If "YES" please complete the details below

Trading name	<input type="text"/>
Trading address	<input type="text"/>
Town	<input type="text"/>
Postcode	<input type="text"/>

Are you currently employed? YES  NO

If "YES" please complete the details below.

Name of employer	<input type="text"/>
Employers address	<input type="text"/>
Town	<input type="text"/>
Postcode	<input type="text"/>
Length of time in employment	<input type="text"/>
Position held	<input type="text"/>
Pay period (weekly/monthly/other)	<input type="text"/>
Gross pay	<input type="text"/>

6.4 Do you have an earnings/wages arrestment being deducted from your monthly salary? YES  NO

If "YES" please complete the information below

Name of creditor imposing earnings arrestment	<input type="text"/>
Amount deducted	<input type="text"/>

**Evidence must be provided with this application to support the information provided in section 6. This should include the debtor's wage slips for the past 3 months/12 weeks and in the case of self-employment, bank statements or accounts for the past 3 months. Failure to supply this information may delay the application process and could result in an incomplete application. We may refuse to award your bankruptcy and your fee may be retained.**



**Section 6 (continued) – Employment details**

6.5 Name of employer	<input type="text"/>
Employers address	<input type="text"/>
Town	<input type="text"/>
Postcode	<input type="text"/>
Length of time in employment	<input type="text"/>
Position held	<input type="text"/>
Pay period (weekly/monthly/other)	<input type="text"/>
Gross pay	<input type="text"/>

6.6 Do you have an earnings/wages arrestment being deducted from your monthly salary? YES  NO

If "YES" please complete the information below

Name of creditor imposing earnings arrestment \_\_\_\_\_

Amount deducted \_\_\_\_\_

**Evidence must be provided with this application to support the information provided in section 6. This should include the debtor's wage slips for the past 3 months/12 weeks and in the case of self-employment, bank statements or accounts for the past 3 months. Failure to supply this information may delay the application process and could result in an incomplete application. We may refuse to award your bankruptcy and your fee may be retained.**

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**Section 6 (continued) – Employment details**

6.7 Name of employer	<input type="text"/>
Employers address	<input type="text"/>
Town	<input type="text"/>
Postcode	<input type="text"/>
Length of time in employment	<input type="text"/>
Position held	<input type="text"/>
Pay period (weekly/monthly/other)	<input type="text"/>
Gross pay	<input type="text"/>

6.8 Do you have an earnings/wages arrestment being deducted from your monthly salary? YES  NO

If "YES" please complete the information below

Name of creditor imposing earnings arrestment	<input type="text"/>
Amount deducted	<input type="text"/>

**Evidence must be provided with this application to support the information provided in section 6. This should include the debtor's wage slips for the past 3 months/12 weeks and in the case of self-employment, 3 months bank statements or accounts. Failure to supply this information may delay the application process and could result in an incomplete application. We may refuse to award your bankruptcy and your fee may be retained.**

**Section 7 – Income**

- 7.1 Total number of people in household 

--
- 7.2 Number of dependent children under 14 in the household 

--
- 7.3 Number of dependent children age 14-18 in the household 

--

**7.3 Salary and wages**

Income	Amount (£)	Frequency
Debtor's salary/wages		
Partner's salary/wages		
<b>Total</b>		

**7.4 Pensions**

Pension(s)	Amount (£)	Frequency
State Pension(s)		
Private or work pension(s)		
Pension Credit		
<b>Total</b>		

**7.5 Other income**

Other income	Amount (£)	Frequency
Maintenance or Child Support		
Boarders or lodgers		
Non-dependant contribution		
<b>Student loans or grants</b>		
<small>(To be completed with any other household income)</small>		
<small>(To be completed with any other household income)</small>		
<b>Total</b>		

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

**Section 7 (continued) – Income**

7.6 **Benefits**

Type of benefit	Amount (£)	Frequency
Jobseeker's Allowance		
Income Support		
Working Tax Credits		
Child Tax Credits		
Child Benefit		
Employment and Support Allowance		
DLA, PIP or Attendance Allowance		
Carer's Allowance		
Housing Benefit/Local Housing Allowance		
Council Tax Reduction		
Universal Credit		
(Other)		
(Other)		
(Other)		
<b>Total</b>		

Please use the space provided below to give details of any benefit listed under "other"

### Section 8 – Expenditure

- 8.1 Please indicate if the expenses listed below are your own household expenses or joint expenses with your partner      Own  Joint

Essential expenditure	Amount	Frequency
Rent		
Ground rent, service charges, factor fees		
Mortgages		
Other Secured Loans		
Building and contents insurance		
Pension and life insurance		
Council Tax		
Gas		
Electricity		
TV Licence		
Magistrates or sheriff court fines		
Maintenance or Child Support		
Hire Purchase/conditional sales		
Childcare costs		
Adult care costs		
<b>Total</b>		

8.2

Phone	Amount	Frequency
Home phone		
Mobile phone(s)		
<b>Total</b>		

8.3

Travel	Amount	Frequency
Public transport (work, school, shopping, etc)		
Car Insurance		
Vehicle Tax		
Fuel (Petrol, Diesel, Oil, etc)		
MOT and car maintenance		
Breakdown and recovery		
Parking charges or tolls		
<b>Total</b>		

*Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397*

**Section 8 (Continued) – Expenditure**

8.4	<b>Housekeeping</b>	<b>Amount</b>	<b>Frequency</b>
	Food and milk		
	Cleaning and toiletries		
	Newspapers and magazines		
	Cigarettes tobacco and sweets		
	Alcohol		
	Laundry and dry cleaning		
	Clothing and footwear		
	Nappies and baby items		
	Pet food		
	<b>Total</b>		

8.5	<b>Other expenditure</b>	<b>Amount</b>	<b>Frequency</b>
	Health (dentist, glasses, prescriptions, health insurance)		
	Repairs/house maintenance (including window cleaning, maintenance contracts)		
	Hairdressing/haircuts		
	Cable, satellite and internet		
	TV, video and other appliance rental		
	School meals and meals at work		
	Pocket money and school trips		
	Lottery and pools etc.		
	Hobbies/leisure/sport (include pub outings, etc.)		
	Gifts (Christmas, birthday, charity etc.)		
	Vet bills and pet insurance		
	<b>Total</b>		

8.6	<b>All other expenses not covered above</b>	<b>Amount</b>	<b>Frequency</b>
	<b>Total</b>		

Total Income  Surplus Income

Total Expenditure  Proposed Contribution

Preferred payment date \_\_\_\_\_

Proposed frequency of subsequent payments \_\_\_\_\_

8.7 Do you wish a third person to pay your contribution or part of it (see section 90(6) of the Bankruptcy (Scotland) Act 2016)? YES  NO

## Section 9 - Living arrangements

9.1 Do you rent the property you currently live in? YES  NO

If you have answered "YES" above please complete the landlord and rental sections below then go straight to section 11.

If you have answered "NO" above please give details of your living arrangements, such as living with parents, in the 'Living arrangements details' text box or go straight to section 10 if you own your property.

### Landlord/property owners details

Name	<input type="text"/>
Address	<input type="text"/>
Town	<input type="text"/>
Postcode	<input type="text"/>

### Rental/tenancy agreement details

Name(s) on tenancy/rental agreement	<input type="text" value="Tenant 1"/>
	<input type="text" value="Tenant 2"/>
Date tenancy/rental agreement was signed	<input type="text"/>

**Living arrangements details**

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

**Section 10 – Your home**

10.1 Do you own the property you currently live in? YES  NO

If you have answered "YES" above please complete the section below  
 If you have answered "NO" go straight to section 11

**House/Flat**

Total estimated value (if known)	Mortgage outstanding	Additional secured loan outstanding	Jointly owned (Yes/No)
£	£	£	

If the property listed above is jointly owned then please provide the name, and if different, the address of the joint owner(s) in the box below.

**Mortgage/Secured loan information**

Name and address of lender	Mortgage account number/lender Ref number	Date loan was obtained	Total amount originally borrowed
Mortgage			
Secured loan			



**Section 11 – Other property**

11.1 Do you currently own property/land, or have you owned property, in the last 5 years which is not your current residence? YES  NO

If "YES" please give details below  
If you have answered "NO" go straight to section 11.2.

Address

Type of property or land

Valuation

Date property was sold (if applicable)

Date from and to

Have you ever lived at this address YES  NO

Amount of mortgage outstanding (if applicable)

Address

Type of property or land

Valuation

Date property/land was sold (if applicable)

Date from and to

Have you ever lived at this address YES  NO

Amount of mortgage outstanding (if applicable)

**Continue on another sheet if necessary**

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

**Section 11 (Continued) – Other property**

11.2 List details of your previous addresses or any other addresses which were not listed in section 11.1 and where you have obtained credit, within the last 5 years, starting with the most recent.

House name or number and street

Town

County

Postcode

Dates from and to:

Did you own this property YES  NO

House name or number and street

Town

County

Postcode

Dates from and to:

Did you own this property YES  NO

**Continue on another sheet if necessary**

## Section 12 - Assets

### Vehicles

12.1 Do you own a vehicle? YES  NO

If "YES" is the vehicle subject to hire purchase, finance or Motability agreement? YES  NO

Vehicle Registration Number

Make and model

Approximate value of vehicle

Year of manufacture

Current vehicle mileage

Hire Purchase company name (If applicable)

12.2 Do you have use of any other vehicle not owned by you? YES  NO

If you have answered yes then please provide details below.

<b>Any further vehicle details</b>
------------------------------------

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

**Section 12 (continued) - Assets**

**Policies**

12.3 Do you have any life insurance/assurance policies, endowments or savings plans? YES  NO

Type of policy	
Policy ref number	
Company name	
Address	
Town	
Postcode	
Sum assured	

Surrender value YES  NO  Value £ \_\_\_\_\_

**12.4 Additional Policy**

Type of policy	
Policy ref number	
Company name	
Address	
Town	
Postcode	
Sum assured	

Surrender value YES  NO  Value £ \_\_\_\_\_

**Continue on another sheet if necessary**

**Section 12 (continued) - Assets**

**Investments**

12.5 Do you have any investments such as stocks, shares, bonds, savings certificates or premium bonds? YES  NO

Type of investment	<input type="text"/>
Company name	<input type="text"/>
Address	<input type="text"/>
Town	<input type="text"/>
Postcode	<input type="text"/>
Reference number	<input type="text"/>
Current value	<input type="text"/>

12.6 **Type of investment**

Company name	<input type="text"/>
Address	<input type="text"/>
Town	<input type="text"/>
Postcode	<input type="text"/>
Reference number	<input type="text"/>
Current value	<input type="text"/>

**Continue on another sheet if necessary**

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

**section 12 (continued) - Assets**

12.7 Are any of your possessions, other than any motor vehicle detailed previously, subject to a hire purchase or credit agreement? YES  NO

If "YES" enter details of all non-essential items below:

Hire purchase or finance company details	Possession description	Date purchased	Term of agreement	Estimated value (£)

12.8 Do you have any non-essential possessions, which are not subject to a hire purchase or credit agreement? YES  NO

If "YES" enter details of all non-essential items below:

Possession description	Date purchased	Estimated value (£)

12.9 Is the total value of all your non-essential possessions more than £2,000?

YES  NO

12.10 Do you have any individual non-essential possessions, including money, with a value of more than £1,000?

YES  NO

**Please note: all cash and money held in bank accounts or elsewhere should be added together.**

### Section 13 – Debts

13.1 Please provide details of all debts using the table below. You may wish to continue on a separate page if necessary.

Type of debt	Name/address of creditor	Account/ reference number	Approximate date debt was obtained	Amount owed (£)

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

### **Bankruptcy Application Form Completion Guidance**

**The information on this page will help you complete the page opposite.**

#### **Section 13 (continued)**

Continue to list details of your debts including the name and address of your creditors as per the previous information.

Please continue on a separate sheet of paper if necessary.



**Section 13 (continued) – Debts**

Type of debt	Name/address of creditor	Account/reference number	Approximate date debt was obtained	Amount owed (£)

**Total debt owed £** \_\_\_\_\_

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

**Section 14 – Bank/building society accounts**

14.1 Do you have any bank or building society account held in your own name or jointly with a third party? YES  NO

If you have answered yes above please provide details below.

Name/address of bank or building society	Name of account holder(s)	Sort code	Account number	Current balance (£)

Please continue on a separate sheet if required.

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

**Section 15 – Other accounts**

15.1 Do you have any Post office, credit union or other accounts held in your own name or jointly with a third party? YES  NO

If you have answered "YES" above please provide details below.

Name/address of post office/credit union etc.	Name of account holder(s)	Sort code	Account number	Current balance (£)

**Please continue on a separate sheet if required.**

If you have answered "NO" to both sections 14 and 15 please use the space provided below to give details of how you manage your finances, for example, how do you receive your wages and how do you pay your bills?

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

**Section 16 – Trustee nomination**

16.1 Do you wish to nominate an Insolvency Practitioner to be your trustee? YES  NO

If you have answered "YES" above please give full details of your nominated Insolvency Practitioner below

Name of nominated trustee	<input type="text"/>
Address	<input type="text"/>
Town	<input type="text"/>
Postcode	<input type="text"/>

If you have chosen to nominate a trustee then you must ensure that **Form 12** is completed and signed by the trustee before submitting this form.

**If the Insolvency Practitioner does not sign and date Form 12, agreeing to act as the trustee in your bankruptcy, the Accountant in Bankruptcy will be deemed to be the trustee and will administer your bankruptcy.**

### Money Adviser Declaration

I am a money adviser within the meaning of the Bankruptcy (Scotland) Act 2016. I confirm that I have provided the debtor named in section 5 of this form with advice in accordance with section 4 of that Act.

I confirm that I have obtained evidence of the debtor's income and expenditure and that I will retain records in relation to the advice given to the debtor in making this application (including evidence of the debtor's income and expenditure) for a period of 2 years.

Full name \_\_\_\_\_

Name of organisation \_\_\_\_\_

Address \_\_\_\_\_

Town \_\_\_\_\_

Postcode \_\_\_\_\_

Contact number \_\_\_\_\_

e-mail address \_\_\_\_\_

Signed \_\_\_\_\_ Date \_\_\_\_\_

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

### Sensitivity obligation

In terms of the Bankruptcy (Scotland) Act 2016 and the Bankruptcy (Scotland) Regulations 2016 made under that Act certain information about all awarded bankruptcies must be included in the Register of Insolvencies (RoI) which is an on-line public record of all insolvencies awarded in Scotland. This information includes a bankrupt person's name, address and principal place of business (if any).

However, where the Accountant in Bankruptcy is of the opinion that inclusion of the information in the RoI would be likely to jeopardise the safety or welfare of any person, (e.g. where a person may be at risk of violence) information about an awarded bankruptcy need not be included in the RoI.

If you consider that inclusion of information about your bankruptcy (if awarded) in the RoI would be likely to jeopardise your safety or welfare or that of any other person you should set out details below and provide any other supporting evidence (eg from the police) with this form. The Accountant in Bankruptcy will then consider whether information about your bankruptcy (if awarded) should not be included in the RoI.

I confirm that I have a legitimate reason for certain details being withheld or treated sensitively for the purpose of the RoI   
(only tick if applicable)

PLEASE GIVE DETAILS BELOW

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

**Preferred contact method**

Please select your preferred method of contact (you may select more than 1 if you wish)

Phone

Text

E-mail

Writing

**Credit/HPI checks**

I understand that Accountant in Bankruptcy may carry out credit/HPI\* checks prior to awarding my bankruptcy and I give my consent to do so.

Signed \_\_\_\_\_ Date \_\_\_\_\_

\*credit/HPI – The Accountant in Bankruptcy may carry out these checks in some cases, before award, to verify the level of debt and also confirm if there is any finance agreement valid against your vehicle.

*Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397*

### **Statement of Undertakings**

I confirm that:

1. I have received money advice from the money adviser detailed in the money advice declaration section of this form. I agree to them acting on my behalf throughout the bankruptcy application process.
2. I have made a full disclosure of all assets which I owned or in which I had an interest in on my bankruptcy award date.
3. I will notify my trustee if I inherit, win or otherwise acquire any further assets during the period of 4 years after my bankruptcy award date.
4. I will immediately inform my trustee of any change of address or change in my financial circumstances during the period of 4 years after the date of bankruptcy.
5. I understand that I have a legal obligation to co-operate with my trustee and to provide any financial information or documents which may be required.
6. I understand that until I am discharged I may not, either alone or jointly with another person, obtain credit (which includes where goods are hired to me under a hire purchase agreement or agreed to be sold to me under a conditional sale agreement) either:  
  - (a) of £2000 or more; or
  - (b) of any amount, where, at the time of obtaining credit, I have debts amounting to £1000 or morewithout informing the person from whom I obtain it of my bankruptcy
7. I understand that, until I am discharged I am subject to certain restrictions on the appointments I may take up or offices I may hold, including that I may not be a member of the UK or Scottish parliament or a justice of the peace.
8. I understand that until I am discharged I may not act as a director of a limited company or be involved directly or indirectly in the promotion, formation or management of a limited company without the leave of the court.
9. I understand that after 12 months from my bankruptcy award date (or normally after 6 months for Minimal Asset Process (MAP) cases) the Accountant in Bankruptcy may discharge me and that my discharge may be dependent on my compliance with this statement of undertakings.
10. I understand that I may be required by my trustee to undergo financial education and that my discharge may be dependent on completion of this financial education.
11. I understand that any assets which vested in my trustee on my bankruptcy award date, and which have not been sold, realised or ingathered by my trustee, will continue to vest in my trustee notwithstanding my discharge.
12. I understand that any assets which were acquired by me during the period of 4 years after my bankruptcy award date and which would have vested in my trustee if they had been part of my estate on my bankruptcy award date will vest in my trustee and that any such assets which have not been sold, realised or ingathered by my trustee, will continue to vest in my trustee notwithstanding my discharge.
13. I understand that if my bankruptcy is converted from MAP to Full Administration my discharge may not be granted until a further £110 is paid.



**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

14. I understand that my circumstances will be assessed for the purpose of a debtor contribution order and that my discharge may be dependent on compliance with that order.

15. I understand that my on-going liabilities, e.g. utility payments, may not be included in the sequestration and I may still have a duty to pay them.

**Note for completion** – If you are signing as executor, or entitled to be appointed as executor, on the estate of a deceased debtor, undertakings 1, 7, 8, 10, 14 and 15 do not apply. You are giving the remaining undertakings, as appropriate, in relation to the position of the deceased debtor or the deceased debtor's estate or the position of executor on the estate of the deceased debtor.

Signed	_____	Witness	_____
		signature	
Print name	_____	Print name	_____
Date	_____	Date	_____

### Statement of Truth

I, \_\_\_\_\_ (insert name) agree to be made bankrupt, if I meet the bankruptcy criteria as defined in the Bankruptcy (Scotland) Act 2016, and certify that the information I have supplied in this application form is true, complete and accurate to the best of my knowledge and belief.

I understand that by becoming bankrupt, I may be required to make regular contributions from my income if I am financially able to do so and that my assets may be sold to repay my debts.

I have read and understood the warning below.

**Note for completion** – If you are signing as executor, or entitled to be appointed as executor, on the estate of a deceased debtor, you are agreeing and certifying in relation to the estate of the deceased debtor being made bankrupt. In relation to the warning below, the reference to bankruptcy restrictions does not apply.

Signature \_\_\_\_\_

Date \_\_\_\_\_

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

**WARNING**

It is a criminal offence under section 8(4) or 218(1) and (2) of the Bankruptcy (Scotland) Act 2016, for you to make a false statement in this form in relation to your assets or business or financial affairs, to not disclose any material fact in this statement or make a material misstatement unless you had a reasonable excuse or can show that you did not know that statement was false and had no reason to believe it was false.

On summary conviction, you may be liable to a fine of up to £5,000 or to £10,000 or to imprisonment for a maximum period of 3 or 6 months depending on the circumstances (or to both the relevant fine and term of imprisonment).

If you deliberately do not disclose all relevant information or if you deliberately make a false statement when completing this form, you may become subject to bankruptcy restrictions.

Form 2

**Certificate for Sequestration**

Bankruptcy (Scotland) Act 2016  
Section 9

This certificate is invalid unless----

- Completed by a money adviser defined in section 4(2) of the Bankruptcy (Scotland) Act 2016, and
- Countersigned by the debtor.

This certificate is valid for 30 days including the date signed by the money adviser.

I,	Insert money adviser's name
	Job title
	Organisation
	Address
	Town
	Postcode
	e-mail address
	Phone number

confirm that, under sections 4(2) and 9(1) of the Bankruptcy (Scotland) Act 2016, I am a money adviser who may grant this certificate which has been applied for by the debtor, and certified that, on the basis of the information provided to me, by

	Insert debtor's name and title
	Address
	Town
	Postcode
	Telephone number
	Date of birth

that he/she\* is unable to pay his/her\* debts as they become due.

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

I have provided the debtor with a copy of the Debt Advice and Information Pack and, where appropriate, have advised the debtor of the options of a voluntary repayment plan, a debt payment programme under the Debt Arrangement Scheme or Trust Deed.

I have advised the debtor that an award of sequestration, if granted, is recorded in a public register and may result in one or more of the following:

- 1) the debtor being refused credit, or being offered credit at a higher rate, whether before or after the date of the debtor being discharged;
- 2) the debtor not being able to remain in his/her current place of residence;
- 3) the debtor being required to relinquish property which they own;
- 4) the debtor being required to make contributions from income for the benefit of creditors;
- 5) damage to the debtor's business interests and employment prospects;
- 6) the debtor still being liable for some debts which are excluded;
- 7) the debtor's past financial transactions being investigated; and
- 8) other restrictions or requirements imposed on the debtor as a result of the debtor's own circumstances and actions.

Please select the relevant qualification which gives you the authority to grant a certificate for sequestration.

- person qualified to act as insolvency practitioner in relation to individuals in accordance with section 390 of the Insolvency Act 1986 (c.45)
- person who works for such an insolvency practitioner, and who has been given authority by that insolvency practitioner to act on behalf of that insolvency practitioner in providing money advice.
- person who works as money adviser for organisations which have been awarded accreditation at type 2 level or above against the Scottish National Standards for Information and Advice Provision
- person approved for the purpose of the Debt Arrangement Scheme
- person who works as a money adviser for citizens advice bureau which is a full member of the Scottish Association of Citizens Advice Bureaux/Citizens Advice Scotland
- person who works as money adviser for a local authority in Scotland

Signed \_\_\_\_\_ ( money adviser) \_\_\_\_\_(date)

I, \_\_\_\_\_ (debtor's name) confirm that I have provided the money adviser with correct and complete information about my financial circumstances.

Signed \_\_\_\_\_ (debtor) \_\_\_\_\_(date)

Form 3  
**Debtor Application (Trust, Partnership, etc.)**  
Bankruptcy (Scotland) Act 2016  
Section 6(3)(a), (4)(b) and (7)(a)

**Section 1 – The Entity**

1.1	Name of the entity	<input type="text"/>
1.2	Type of entity	<input type="text"/>
1.3	Address of entity	<input type="text"/>
	Town	<input type="text"/>
	County	<input type="text"/>
	Postcode	<input type="text"/>
	Contact telephone number	<input type="text"/>
	Other contact number	<input type="text"/>
	E-mail address	<input type="text"/>
	Fax	<input type="text"/>

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

**Section 2 – You**

2.1	Title (Mr, Mrs, Miss, Ms etc)	<input type="text"/>
	Surname	<input type="text"/>
	First and middle names	<input type="text"/>
2.2	Home address (house name/number & street)	<input type="text"/>
	Town	<input type="text"/>
	County	<input type="text"/>
	Postcode	<input type="text"/>
	Daytime contact number	<input type="text"/>
	Evening contact number	<input type="text"/>
	e-mail address	<input type="text"/>
2.3	Your relationship to the entity	<input type="text"/>

**Section 3 – Previous Business addresses**

3.1 Has the business moved addresses in the past 3 years? YES  NO

If you have answered "YES" above please give further details

Previous address	<input type="text"/>
Town	<input type="text"/>
County	<input type="text"/>
Postcode	<input type="text"/>
Dates	<input type="text"/>

3.2 Has the business ever obtained credit from any other address not stated in section 1 or 3? YES  NO

If you have answered "YES" above please give further details

Address (where credit was obtained)	<input type="text"/>
Town	<input type="text"/>
County	<input type="text"/>
Postcode	<input type="text"/>
Dates	<input type="text"/>

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

**Section 3 (continued) – Previous Business addresses**

- 3.3 Has the entity ever had a business address or traded anywhere outside Scotland? YES  NO

If you have answered "YES" above then please give details below.

Country \_\_\_\_\_

Dates \_\_\_\_\_

- 3.4 Has the entity ever been subject to bankruptcy proceedings in any country outside Scotland? YES  NO

If you have answered "YES" above then please give details below.

Country \_\_\_\_\_

Dates \_\_\_\_\_

Any additional information relevant to previous business addresses.



**Section 4 – Concurring Creditor (if applicable)**

4.1	Name of concurring creditor	<input type="text"/>
	Position (if they are agreeing on behalf of the firm, company etc)	<input type="text"/>
4.2	Address	<input type="text"/>
	Town	<input type="text"/>
	County	<input type="text"/>
	Postcode	<input type="text"/>
4.3	Amount owed to the creditor from the entity	<input type="text"/>

**4.4 This section must be completed by the concurring creditor**

- a I am the creditor identified above.
- b I am owed the sum specified in the Form 6 Oath by Creditor .
- c I have read the guidance notes for this section.
- d I concur in this application.

Signed \_\_\_\_\_

Status \_\_\_\_\_

Date \_\_\_\_\_

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

**Section 5 – Nominating a Trustee**

5.1 Do you wish to nominate an Insolvency Practitioner to be the trustee? YES  NO

If "YES" please complete the details below.

5.2	Name of nominated trustee	<input type="text"/>
5.3	Address	<input type="text"/>
	Town	<input type="text"/>
	County	<input type="text"/>
	Postcode	<input type="text"/>

If you have chosen to nominate a trustee, ensure that Form 12 is completed and returned with this application.

Form 4  
**Statement of Assets and Liabilities**  
**(Trusts, Partnerships etc.)**  
Bankruptcy (Scotland) Act 2016  
Sections 6(9) and 8(3)(a)

**WARNING**

You may be committing a criminal offence if you deliberately do not disclose all relevant information or if you deliberately make a false statement when completing this form.

Name of the entity	<input type="text"/>
Address	<input type="text"/>
Town	<input type="text"/>
County	<input type="text"/>
Postcode	<input type="text"/>
Contact name	<input type="text"/>
Contact address	<input type="text"/>
Town	<input type="text"/>
County	<input type="text"/>
Postcode	<input type="text"/>
Daytime contact number	<input type="text"/>
Evening contact number	<input type="text"/>

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: *The Bankruptcy (Scotland) Regulations 2016 No. 397*

**The information on this page will help you complete the next page.**

Please complete this form using **BLACK INK** and **CAPITAL LETTERS**.

Indicate if the entity receives an income by ticking the relevant box.

If you answer "YES", complete the table giving details of any income the entity receives, grants, lottery, money from trusts etc.

Enter the address from where this income originates, the frequency of the payments such as weekly, monthly, fortnightly etc, and the amount the entity receives.

**Form 4 - Statement of Assets and Liabilities**

Is the entity currently receiving any income? YES  NO

If "YES" please enter details below of any income received.

Type of income	Name & address of income source	Frequency	Gross income (£)

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**The information on this page will help you complete the next page.**

Please complete this form using **BLACK INK** and **CAPITAL LETTERS**.

Indicate if you are a licensee (licence holder) under the licensing legislation, the Licensing (Scotland) Act 2005. This includes a premises or personal licence. You should select "YES" if you are involved in the licenced trade for example, if you own a pub and there is a tenant who owns a licence.

Indicate if the entity owns a motor vehicle by ticking the relevant box. 'Motor vehicle' includes: car, van, motorbike, moped and truck.

If you select "YES" then complete the table giving details of the make and model of the vehicle(s), the current mileage, the registration number and the estimated value. Please also give details of the hire purchase or finance company if applicable.

Provide details of all motor vehicles owned by the entity.

You must enclose a copy of the hire purchase, finance or credit agreement when submitting this application.

Provide details of what the motor vehicle is used for.

**Form 4 - Statement of Assets and Liabilities**

Do you currently hold a premises or personal licence under the Licensing (Scotland) Act 2005 or are you involved in licenced trading? YES  NO

Does the entity own a motor vehicle? YES  NO

Provide details of all the motor vehicles owned by the entity.

Make and model	Current mileage	Registration No	Estimated value (£)	HP or finance company (if applicable)

You **MUST** enclose a copy of any finance agreement with this form.

Please provide details below of what the vehicle(s) are used for.

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**The information on this page will help you complete the next page.**

Please complete this form using **BLACK INK** and **CAPITAL LETTERS**.

Indicate if the entity has any other possessions, other than the motor vehicle, which are subject to hire purchase or credit agreement by ticking the relevant box.

If you select "YES" then complete the table giving details of the hire purchase or credit company, a description of the item, the date purchased, the term of the agreement and the estimated value of the item.

Indicate if the entity has any possessions which are not subject to a hire purchase or credit agreement by ticking the relevant box. Items to consider are: satellite equipment, caravans, boats, video recording equipment, tools, fixtures and fittings, electrical goods, paintings, sports equipment etc.

If you have selected "YES" then complete the table giving a description of the item, date the item was purchased and an estimated value.



**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

**Form 4 - Statement of Assets and Liabilities**

Are any of the entity's possessions, other than the motor vehicle, subject to hire purchase or credit agreement? YES  NO

If "YES" enter details of these possessions and the agreement below.

Hire purchase or finance company	Possession description	Date purchased	Term of agreement	Estimated value (£)

Does the entity have any possessions which are not subject to a hire purchase or credit agreement? YES  NO

If "YES" enter details of the item(s) below.

Possession description	Date purchased	Estimated value (£)

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

**The information on this page will help you complete the next page.**

Please complete this form using **BLACK INK** and **CAPITAL LETTERS**.

Indicate if the entity has a bank or building society account by ticking the relevant box.

If you have selected "YES" then complete the table.

Enter the name and address of the bank or building society where the account is held.

Enter the name of the account.

Enter the account number.

Enter the sort code.

Enter the current balance of the account.

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

**Form 4 - Statement of Assets and Liabilities**

Does the entity have a bank or building society account(s)?      YES       NO

If "YES" please give details of the account(s) below.

Name & address of bank or building society	Account name	Account number	Sort code	Balance (£)

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

**The information on this page will help you complete the next page.**

Please complete this form using **BLACK INK** and **CAPITAL LETTERS**.

Indicate if the entity has a post office or credit union account by ticking the relevant box.

If you have selected "YES" then complete the table.

Enter the name and address of the post office or credit union where the account is held.

Enter the name of the account.

Enter the account number.

Enter the sort code.

Enter the current balance of the account.

**Form 4 - Statement of Assets and Liabilities**

Does the entity have a post office, credit union or other type of account?

YES

NO

If "YES" please give details of the account(s) below.

Name & address of post office/credit union etc	Account name	Account number	Sort code	Balance (£)

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

**The information on this page will help you complete the next page.**

Please complete this form using **BLACK INK** and **CAPITAL LETTERS**.

Indicate if the entity has any assurance policies, endowment policies or saving plans by ticking the relevant box.

If you have selected "YES" then complete the table.

Enter the type of policy or plan.

Enter the name and address of the company the policy/plan is with.

Enter the reference number for the policy/plan.

Enter the sum assured.

Enter the estimated surrender value of the policy/plan.

**Form 4 - Statement of Assets and Liabilities**

Does the entity have any assurance policies, endowment policies or saving plans? YES  NO

If "YES" please give details of the account(s) below.

Type of policy/plan	Name & address of company	Reference number	Sum assured	Estimated surrender value (£)

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

**The information on this page will help you complete the next page.**

Please complete this form using **BLACK INK** and **CAPITAL LETTERS**.

Indicate if the entity has any investments such as stocks and shares, bonds, savings accounts or premium bonds by ticking the relevant box.

If you have selected "YES" then complete the table.

Enter the type of investment.

Enter the name and address of the relevant company.

Enter the investment reference number.

Enter the estimated value.



**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

**Form 4 - Statement of Assets and Liabilities**

Does the entity have any investments, such as stocks, shares, bonds, saving certificate or Premium Bonds? YES  NO

If "YES" please enter details of the policies and savings plans below.

Type of Investment	Name & address of company	Reference number	Value (£)

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

**The information on this page will help you complete the next page.**

Please complete this form using **BLACK INK** and **CAPITAL LETTERS**.

Indicate if the entity rents the property it currently does business from by ticking the relevant box.

If you have selected "YES" then complete the landlord and rental sections.

Enter the name of the landlord/property owner.

Enter the landlord's/property owner's address. Please note there are separate lines available for town and postcode.

Enter the name of the tenant(s) as they appear on the rental/tenancy agreement.

Enter the date the rental/tenancy agreement was signed.

Give any additional information you feel relevant regarding the rental of the property in the text box provided.

#### **Form 4 - Statement of Assets and Liabilities**

Does the entity rent the property where it does business from? YES  NO

If you have answered "YES" above please complete the landlord and rental section below.

##### **Landlord/Property Owner Details**

Name

Address

Town

Postcode

##### **Rental/Tenancy Agreement Details**

Name(s) of tenancy/rental agreement

Date tenancy/rental agreement was signed

You must submit your rental or tenancy agreement or letter from the landlord with this form.

<b>Any additional information regarding the rental of the property.</b>
---

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

**The information on this page will help you complete the next page.**

Please complete this form using **BLACK INK** and **CAPITAL LETTERS**.

Indicate if the entity owns the property where it currently does business from by ticking the relevant box.

If you have selected "YES" then please complete the tables.

Enter the value of the property.

Enter the current value of the mortgage outstanding.

Enter the value of any secured loan against the property outstanding.

Please indicate if the property is jointly owned by putting "Yes" or "No" in the end column.

If the property is jointly owned please provide the name and address of the other owner(s) in the box provided.

Enter the name and address of the mortgage/secured loan lender.

Enter the mortgage/account reference number.

Enter the date the mortgage/loan was obtained.

Enter the total amount originally borrowed.

**Form 4 - Statement of Assets and Liabilities**

Does the entity own the property where it does business from? YES  NO

If you have answered "YES" above please complete the section below.

Total value	Mortgage outstanding	Secured loan outstanding	Jointly owned (Yes/No)
£	£	£	

If the property listed above is jointly owned then please provide the name, and if different, the address of the joint owner(s) in the box below.

**Mortgage/Secured loan information**

Name and address of lender	Mortgage account number/lender ref number	Date loan was obtained	Total amount originally borrowed
<u>Mortgage</u>			
<u>Secured loan</u>			

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

**The information on this page will help you complete the next page.**

Please complete this form using **BLACK INK** and **CAPITAL LETTERS**.

State if the entity, whether wholly or jointly, owns any other property within Scotland or elsewhere by ticking the relevant box.

If you have selected "YES" then please provide details of the property owned.

Enter the address of the property.

Enter the date the property was purchased.

If the property is jointly owned then please provide the name and address of the joint owner(s) in the box provided.

Enter the name and address of the mortgage/secured loan lender.

Enter the mortgage/account reference number.

Enter the date the mortgage/loan was obtained.

Enter the total amount originally borrowed.

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

**Form 4 - Statement of Assets and Liabilities**

Does the entity own, either wholly or jointly, any other property within Scotland or elsewhere? YES  NO

If yes please provide details and address(es) of the properties.

Property address	Date property was bought

If the property listed above is jointly owned then please provide the name, and if different, the address of the joint owner(s) in the box below.

--

**Mortgage/Secured loan information**

Name and address of lender	Mortgage account number/lender ref number	Date loan was obtained	Total amount originally borrowed
<u>Mortgage</u>			
<u>Secured Loan</u>			

Continue on a separate sheet of paper if necessary

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

**The information on this page will help you complete the next page.**

Please complete this form using **BLACK INK** and **CAPITAL LETTERS**.

Indicate if the entity has previously owned property or land within Scotland or elsewhere in the last 5 years by ticking the relevant box.

If you have selected "YES" then please enter details of the property or land in the table provided.

Enter the property/land address.

Enter the date the property/land was bought.

Enter the date the property/land was sold.

If the property/land listed was jointly owned then please provide the name and address of the joint owner(s) in the box provided.



**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

**Form 4 - Statement of Assets and Liabilities**

Has the entity previously owned any property or land within Scotland or elsewhere in the last 5 years? YES  NO

If "YES" please give details below

Address	Date property or land was bought	Date property or land was sold

If the property or land listed above was jointly owned then please provide the name, and if different, the address of the joint owner(s) in the box below.

--

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

**The information on this page will help you complete the next page.**

Please complete this form using **BLACK INK** and **CAPITAL LETTERS**.

Enter the type of debt (eg. credit card, loan etc).

Enter the name and address of the creditor.

Enter the account/reference number relating to the debt.

Enter the approximate date the debt was obtained.

Enter the amount owed at present.

**Form 4 - Statement of Assets and Liabilities**

Please provide details of all debts using the table below. You may wish to continue on a separate page if necessary.

Type of debt	Name/address of creditor	Account/reference number	Approximate date debt was obtained	Amount owed (£)

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

**The information on this page will help you complete the next page.**

Please complete this form using **BLACK INK** and **CAPITAL LETTERS**.

Enter the type of debt (eg. credit card, loan etc.)

Enter the name and address of the creditor.

Enter the account/reference number relating to the debt.

Enter the approximate date the debt was obtained.

Enter the amount owed at present.

**Form 4 - Statement of Assets and Liabilities**

Type of debt	Name/address of creditor	Account/reference number	Approximate date debt was obtained	Amount owed (£)

Total Debt Level £ \_\_\_\_\_

**NOW PLEASE SIGN THIS FORM**

**I certify that all the information supplied in this application is true, complete and accurate to the best of my knowledge and belief.**

Signed \_\_\_\_\_

Print \_\_\_\_\_

Date \_\_\_\_\_

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

Form 5

**Statutory Demand for Payment of Debt**

Bankruptcy (Scotland) Act 2016  
Section 16(1)(i)

Warning to person Receiving Demand	Please do not ignore this form
<p>If you do nothing in response to this demand, you could be made bankrupt and your property and goods taken away from you. Please read carefully this Demand and Notes for Debtors.</p> <p><u>Notes for Creditors</u> This form must be served personally on the debtor by a sheriff officer or messenger-at-arms. An additional copy of the Demand should also be given to the debtor at the same time.</p> <p>Insert name and address of debtor</p>  <p>Insert name and address of creditor</p>  <p>(a) Insert name and address of person completing the demand</p> <p>* Delete if creditor is completing demand</p> <p>(b) Insert name of creditor</p>  <p>(c) Insert name of debtor</p> <p>* Delete as appropriate</p>  <p>(d) Insert amount of debt(s) claimed. The total of the debt(s) must not be less than £1,500.</p>	<p>If you are in any doubt about what to do, you should seek advice <b>immediately</b> from a solicitor, insolvency practitioner, money adviser or a Citizens Advice Bureau.</p>  <p><b>The Demand</b></p> <p>To _____</p> <p>_____</p> <p>_____</p> <p>From</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>1. (a) I, _____</p> <p>_____</p> <p>_____</p> <p>*being a person authorised to act on behalf of (b) _____ (the creditor)</p> <p>claim that as at the date of this Demand (c) you, _____ owe me/the creditor* the sum of</p>  <p>(d) £ _____ (the sum demanded)</p>



**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

<b>DOCQUET OF SERVICE</b>	
<p><b>Note</b></p> <p>This Docquet of Service should be completed by the messenger-at-arms or sheriff officer and witness at the time of serving the demand upon the debtor. The Docquet of Service in the duplicate demand, which is also to be given to the debtor, should also be completed.</p> <p>(a) Insert name and address of debtor</p> <p>(b) Insert date of service. This is the date after which the period of three weeks mentioned in paragraphs 4-6 of the above Demand starts to run.</p> <p>(c) Insert name and address of messenger at-arms or sheriff officer.</p> <p>* delete whichever is not applicable</p>	<p>To (a) _____                  _____                  _____</p> <p>You are served with the above Demand on                  (b) _____                  by me,</p> <p>(c) _____                  _____                  _____</p> <p>in the presence of the witness who also signs below.</p> <p>Signed _____                  Messenger-at-arms/Sheriff Officer*</p> <p>Date _____</p> <p>Name and address of witness in BLOCK CAPITALS                  _____                  _____                  _____</p> <p>Signed _____                  Witness</p>



<b>DENIAL SLIP</b>	
<p>To be completed in the circumstances described in paragraph 4 of the Demand Form or in the notes for Debtor 2 and 3.</p> <p><i>Note</i> You must fill in and sign this Denial Slip. Tear it off and post it <b>immediately</b> to the creditor by <b>RECORDED DELIVERY POST</b> to arrive within the three week period mentioned in paragraph 4 of the Demand Form.</p> <p>(a) Insert name and address of creditor</p>   <p>(b) Insert date of service of Demand as shown in the Docquet of Service.</p>  <p>* Delete if not applicable Only delete (c) if you accept that you owe the whole of the sum demanded but retain (d) if you are denying that you have to pay that sum immediately.</p>	<p>To (a) _____ _____ _____</p> <p>I refer to the demand served on me on</p> <p>(b) _____</p> <p>I DENY</p> <p>* (c) that I owe you the sum demanded * (d) that I have to pay you the sum demanded Immediately</p> <p>Signature of Debtor _____</p> <p>Date _____</p> <p>Name of Debtor in BLOCK CAPITALS _____</p> <p>Address of Debtor _____ _____ _____</p>

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

#### NOTES FOR DEBTOR - READ CAREFULLY

1. If you do nothing in response to this Demand you could be made bankrupt.

**Please do not ignore this form**

2. (a) If you deny that you owe the sum demanded or any part of it; or  
(b) If you accept that you owe the sum demanded but deny that you have to pay it or any part of it immediately (even though you may admit that you must pay it at some time),

you must fill in the attached Denial Slip (or a copy of it) and post it, or a letter to the same effect, to the creditor by **RECORDED DELIVERY POST**. This should be done **immediately** and before the end of the 3 week period mentioned in paragraph 4 of the form. If you do not do so, you could be made bankrupt.

You should keep a copy of what you send to the creditor and the recorded delivery slip.

3. If however, you accept—  
(a) that you owe the sum demanded, and  
(b) that you have to pay the sum demanded immediately to the creditor,

you should either pay the sum demanded or find security for such payment. If you cannot do either you should get in touch with the creditor **immediately** and try to agree with him a way of paying off the sum demanded perhaps by paying by instalments.

Even if the creditor agrees that the sum demanded or any part of it need not be paid immediately to him, you should still send the **Denial Slip** as in Note 2 above, to protect you from the possibility of being bankrupt.

4. If you are in any doubt as to—  
(a) whether you owe the sum demanded or any part of it; or  
(b) whether the sum demanded or any part of it must be paid immediately; or  
(c) whether any details mentioned in connection with the debt(s) in paragraph 2 and 3 of the form are correct; or  
(d) about what you should do with this form or its implications,

you should seek advice **immediately** from a solicitor, insolvency practitioner, money adviser or from a Citizens Advice Bureau.

#### Warning to person receiving Demand

**Please do not ignore this form**

If you do nothing in response to this demand, you could be made bankrupt and your property and goods taken away from you. Please read **carefully** this Demand and Notes for Debtors. If you are in any doubt about what to do, you should seek advice **immediately** from a solicitor, insolvency practitioner, money adviser or a Citizens Advice Bureau.

Form 6

**OATH BY CREDITOR**

Bankruptcy (Scotland) Act 2016  
Section 19(1)

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*This oath must be sworn by the creditor or a person authorised to act on the creditor's behalf before a person entitled to administer the oath, e.g. in the U.K. a Notary Public (usually a solicitor) or a Justice of the Peace.*

*In the case of an oath administered outside the U.K. see section 19(2)(b) of the Act.*

(a) *Insert name and address of creditor*


(b) *If applicable, insert name and address of authorised person acting on behalf of creditor.*


*\*delete as appropriate*

I do solemnly and sincerely swear/affirm\* that to the best of my knowledge and belief

(c) *Insert name and address of debtor*


*\*delete as appropriate*

owes me/the creditor\* the sum of

(d) *Insert total amount of the debt or debts.*

£\_\_\_\_\_ which is now payable and that the particulars of the debt or debts making up that sum, which are set out overleaf, are correct.

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*\*delete as appropriate*

Sworn/affirmed\* at

(e) Insert name, place and date  
oath is sworn.


(f) Name and address and designation  
of person administering the oath or  
affirmation.


*\*delete as appropriate*

Signed \_\_\_\_\_ creditor/on behalf of creditor\*

Signature of person administering  
the oath/affirmation\*

\_\_\_\_\_

**Form 6**

**OATH BY CREDITOR**

**PARTICULARS OF EACH DEBT**

**Note – Please provide details of each debt separately.**

**(1) Amount of debt**

Insert total amount of the debt which is now payable, showing separately the amount of principal and interest claimed. Interest may be claimed only when the creditor is entitled to it.  
Do not deduct the value of any security held at this stage (see note 4).

**(2) Details of debt**

Specify what the debt is in respect of, the date or dates when it was incurred and when it became payable.

**(3) Evidence of debt**

Attach any evidence of the debt, such as an extract decree (or copy of it certified by the Clerk of Court) or any voucher or other supporting evidence of the debt.

**(4) Security for debt**

Specify the nature and value of any security held in respect of the debt or debts.  
For the purpose of the application for bankruptcy, the value of any such security need not be deducted from the amount of the debt claimed.

Security is defined for the purpose of the Bankruptcy (Scotland) Act 2016 as meaning "any security, heritable or moveable, or any right of lien, retention or preference".

**(1) Amount of debt**

**(2) Details of debt**

**(3) Evidence of debt**

**(4) Security for debt**



Form 8

**Form of Refusal of Award of Sequestration**

Bankruptcy (Scotland) Act 2016  
Section 22(1) and (2)

\_\_\_\_\_ (Insert debtor's name; where the debtor is an entity applying under section 6 of the Bankruptcy (Scotland) Act 2016, the name of that entity)

\_\_\_\_\_ (Insert debtor's address)

\_\_\_\_\_ (Insert case reference number)

has applied for an award of sequestration.

\*The application has not been completed in accordance with the Bankruptcy (Scotland) Act 2016 and the relevant Regulations for the following reason:

\_\_\_\_\_  
\_\_\_\_\_

\*The debtor has not met the conditions set out in section 2(2) of the Bankruptcy (Scotland) Act 2016 for any of the following reasons:

- The debtor has not been assessed by the common financial tool as not requiring to make a debtor's contribution or has not been in receipt of a prescribed payment for a period of at least 6 months ending on the day on which the application was made
- The total amount of the debtor's debts (including interest) at the date the debtor application was made is "less than £1500/"more than £17,000
- The total value of the debtor's assets (leaving out of account any liabilities) on the date the debtor application was made exceeds £2000
- The debtor has a single asset the value of which exceeds £1000
- The debtor owns land
- The debtor has not been granted a certificate for sequestration of the debtor's estate in accordance with section 9 of the Bankruptcy (Scotland) Act 2016 within the prescribed period of 30 days before the day the debtor application was made
- An award of sequestration was made against the debtor in pursuance of an application under section 2(2) of the Bankruptcy (Scotland) Act 2016 within 10 years ending on the day before the day the debtor application was made
- An award of sequestration was made against the debtor, on an application other than under section 2(2) of the Bankruptcy (Scotland) Act 2016 or on a petition for sequestration, within 5 years ending on the day before the day on which the debtor application was made.

\*The debtor has not met the conditions set out in section 2(8) of the Bankruptcy (Scotland) Act 2016 for any of the following reasons:

- The total amount of the debtor's debts (including interest) at the date the debtor application was made is less than £3000

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- An award of sequestration against the debtor was made within 5 years ending on the day before the day on which the debtor application was made
- The debtor has not obtained the advice of a money adviser in accordance with section 4(1) of the Bankruptcy (Scotland) Act 2016
- The debtor has not given a statement of undertakings (including an undertaking to pay to the trustee after the award of sequestration of the debtor's estate an amount determined using the common financial tool)
- The debtor
  - is not apparently insolvent for the purposes of section 2(8)(e)(i) of the Bankruptcy (Scotland) Act 2016 or
  - has not been granted a certificate for sequestration of the debtor's estate in accordance with section 9 of the Bankruptcy (Scotland) Act 2016 within the prescribed period of 30 days before the debtor application was made
  - has not granted a trust deed which is not a protected trust deed by reason of the creditors objecting, or not agreeing to the trust deed.

\* The debtor is currently subject to a protected trust deed

\* The debtor application is made under section 6 of the Bankruptcy (Scotland) Act 2016 and the debtor has not met relevant conditions in terms of that section for any of the following reasons:

- No qualified creditor has or creditors have concurred in the application
- The debtor is not apparently insolvent as defined in section 16 of that Act

\*The debtor has not paid the application fee prescribed in Regulations.

\*The debtor has not sent a statement of their assets and liabilities.

Signed \_\_\_\_\_ (insert name) \_\_\_\_\_ (insert status)

Date \_\_\_\_\_ (insert date)

#### Refusal of Award

I refuse this application for an award of sequestration.

Signed \_\_\_\_\_  
Accountant in Bankruptcy/Depute Accountant

Date \_\_\_\_\_ (insert date)

\*delete as appropriate



Form 9

**Notice of Award of Sequestration to the  
Keeper of the Registers of Scotland**

Bankruptcy (Scotland) Act 2016  
Section 26(2)

AiB Reference: \_\_\_\_\_

**Certificate**

I certify that

	Insert debtor's full name
	Insert debtor's address
	Town
	County
	Postcode

applied to the Accountant in Bankruptcy for the sequestration of their estate and that sequestration was awarded on \_\_\_\_\_ (insert date) and

\* \_\_\_\_\_ (insert trustee's name and designation) was appointed as the trustee in the sequestration

\*the Accountant in Bankruptcy is deemed to have been appointed as the trustee in the sequestration.

Signed \_\_\_\_\_ (insert name)

\*Accountant in Bankruptcy/Depute Accountant/Authorised Delegate of the Accountant

Date \_\_\_\_\_ (insert date)

\*delete as appropriate

**Note**

Except where the information set out in this form is transmitted to the Keeper of the Registers of Scotland in an approved electronic format, this certificate must be marked by an appropriate official stamp.

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Form 10

**Statement of Assets and Liabilities  
Petition by creditor or trustee under a trust deed**

Bankruptcy (Scotland) Act 2016  
Section 41(2)

**WARNING TO THE DEBTOR**

It is a criminal offence under section 41(3) of the Bankruptcy (Scotland) Act 2016 for you, unless you can show that you had a reasonable excuse, to:

- (A)** Fail to disclose any material fact in this statement.
- (B)** Make a material misstatement in this statement.

On summary conviction you may be liable to a fine of up to £5,000 or to imprisonment for a maximum period of 3 months or to both. If you deliberately do not disclose all relevant information or if you deliberately make a false statement when completing this form, you may become subject to bankruptcy restrictions.

**CERTIFICATION**

	Insert name
	Address
	Town
	County
	Postcode

I have stated in this statement details of all my assets, liabilities, income and expenditure as at the date of bankruptcy\* on \_\_\_\_\_

\*"the date of bankruptcy" is-

- (i) the date on which the sheriff granted warrant to require you to appear before the sheriff to decide whether you should be made bankrupt; or
- (ii) where more than one such warrant was granted, the date on which the first such warrant was granted.

**I certify that the information I have supplied in Form 10 is true, complete and accurate to the best of my knowledge and belief.**

**I have read and understood the warning above.**

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Income**

**Q1-3.** In column 1 enter all earned income, all social security benefits, and all other income. For example, Income Support Income-based Jobseekers' Allowance, Housing Benefit, Working Tax Credits and Council Tax Benefit. If the income you receive is not detailed, please provide details on a separate page.

In column 2, enter the frequency that your income is received, for example, weekly/fortnightly/monthly/annually.

In column 3 enter the amount you receive.

In column 4 enter the name and address of your employer, benefits office or other source of income as applicable. Continue on a separate page if required.

1. Average net earnings	Frequency	Amount (£)	Name and address of employer
2. Social Security benefits	Frequency	Amount (£)	Address of benefits office
3. Any other income	Frequency	Amount (£)	Address of other source of income
Pension	_____	_____	
Annuity	_____	_____	
Grants, Rents, Trusts etc	_____	_____	

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**Bank Accounts**

**Q4.** Give details of any sums held by you in Bank or Building Society accounts, including the account number and the branch where the account is held.

Name of bank or building society	Branch	Account number	Sort code	Balance

**Investments**

**Q5.** Complete this section if you have any investments. These may be ISAs, shares, premium or other bonds, savings certificates. Details of any endowment policies or life assurance policies should also be entered.

Type of investment	Name of company	Reference number

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**Non-essential possessions**

**Q6.** List any non-essential possessions owned by you or in the course of hire purchase or a credit agreement. **Enter only non-essential items.**

Examples of essential items are the following items if used in the debtor's family home–

- Beds, bedding, household linen and curtains
- Food, cooking equipment and kitchen utensils
- Refrigerators, washing machines and microwave ovens
- Chairs, settees, tables and other furniture
- Lights, fittings and heating appliances
- Floor coverings
- Articles used for cleaning, drying, mending, or pressing clothes
- Articles used for cleaning the house
- Articles used for safety in the house
- Tools used for maintenance or repair of the house and household articles
- Computers and accessory equipment
- Radios, telephones and televisions.

**Do not include any of the above items in your list.**

Description	Value(£)	Subject to hire purchase / credit agreement Yes / No

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**Property**

**Q7.** List all the land and buildings in which you have an interest as an owner or tenant.

**Part A**

**Column 1,** write the addresses of any property you own, either wholly or jointly. If you are a joint or part owner, specify the share you own, for example, half, third, etc.

**Column 2,** write the property type which includes land, timeshares, or any other property, including business or agricultural property.

**Column 3,** write the name and address of any joint owners.

**Column 4,** say whether there is a mortgage or secured loan on the property. Details of the securities should be listed at question 9.

**Part B**

In columns 1 to 4, write the address, type of property, name(s) of the joint tenant(s) and the name and address of the property owner.

A. Address Wholly or jointly owned	Type of property	Name of joint owner(s)	Mortgage or secured loan Yes / No
B. Address if property rented	Type of property	Name of joint tenant	Owner of property

(Continue on a separate sheet if required)



**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

**Secured debts**

**Q9.** Complete if you have a mortgage and/or any debts secured against your home. Provide information regarding the amount currently owed to the secured lender and the date the mortgage or loan was obtained.

Name and address of mortgage company/ lender	Mortgage account no Lender reference no	Amount owed (£)	Date loan was obtained
Total amount of secured debts		£	



Form 11

**Statement of Claim by Creditor**

Bankruptcy (Scotland) Act 2016  
Sections 46(2)(a) and 122(9)(a)

<p><b>WARNING</b> It is a criminal offence</p> <ul style="list-style-type: none"><li>• for a creditor to produce a statement of claim, account, voucher or other evidence which is false, unless the creditor shows that the creditor neither knew nor had reason to believe that it was false; or</li><li>• for a debtor who knows or becomes aware that a creditor has made a false statement to fail to report it to their trustee within one month of acquiring such knowledge.</li></ul> <p>On conviction either creditor or debtor may be liable to a fine and/or imprisonment.</p>
---

<p><b>Notes</b> (a) Insert name and address of debtor</p>	<p>Sequestration of the estate of (a) _____ _____ _____</p>
<p>(b) Insert name and address of creditor</p>	<p>(b) _____ _____ _____</p>
<p>(c) Insert email address of creditor</p>	<p>(c) _____</p>
<p>(d) Insert name and address, if applicable, of authorised person acting on behalf of the creditor</p>	<p>(d) _____ _____ _____</p>
<p>(e) Insert details of any other proceedings in which a claim has been or is being submitted in respect of the debt or part of the debt and the amount claimed</p>	<p>(e) _____ _____ _____</p>
<p>(f) Insert total amount claimed in respect of all the debts, the particulars of which are set out overleaf.</p>	<p>I submit a claim of (f) £ _____ in the above sequestration and certify that particulars of the debt or debts making up that claim, which are set out overleaf, are true, complete and accurate, to the best of my knowledge and belief.</p>
<p>(g) Insert bank details of creditor</p>	<p>Account Name _____ Sort Code _____ Account Number _____</p>
	<p>Signed _____ Creditor*/person acting on behalf of creditor</p>
	<p>Date _____</p>

*Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397*

<b>PARTICULARS OF EACH DEBT</b>	
<p><b>Notes</b></p> <p>A separate set of particulars should be made out in respect of each debt.</p> <ol style="list-style-type: none"> <li>1. Describe briefly the debt, giving details of its nature, the date when it was incurred and when payment became due. Attach any documentary evidence of the debt, if available.</li> <li>2. Insert total amount of the debt, showing separately the amount of principal and any interest which is due on the debt as at the date of sequestration. Interest may only be claimed if the creditor is entitled to it. Show separately the VAT on the debt and indicate whether the VAT is being claimed back from HM Revenue and Customs.</li> <li>3. Specify and give details of the nature of any security held in respect of the debt including—               <ol style="list-style-type: none"> <li>(a) the subjects covered and the date when it was given;</li> <li>(b) the value of the security;</li> </ol> <p>Note: The trustee may, at any time after 12 weeks from the date of sequestration, require a creditor to discharge a security or to convey or assign it to the trustee on payment of the value specified by the creditor.</p> <ol style="list-style-type: none"> <li>(c) whether the creditor is surrendering or undertakes to surrender the security.</li> </ol> <p>Security is defined for the purposes of the Bankruptcy (Scotland) Act 2016 as meaning "any security, heritable or moveable, or any right of lien, retention or preference".</p></li> <li>4. In the case of a creditor who is a Member State liquidator, specify and give details of underlying claims in respect of which the Member State liquidator is claiming as creditor. Attach documentary evidence of debts.</li> <li>5. A secured creditor must in calculating the total amount of the secured creditor's claim deduct the value of any security as estimated by the secured creditor, unless the secured creditor surrenders it (see note 3(c) above).</li> </ol>	<ol style="list-style-type: none"> <li><b>1. Particulars of debt (including reference number)</b></li> <li><b>2. Amount of debt</b></li> <li><b>3. Security for debt</b></li> <li><b>4. Underlying claims</b></li> <li><b>5. Total amount of the debt</b></li> </ol>

Form 12

**Form of Undertaking to act as Trustee in Sequestration  
on the Application of a Debtor**

Bankruptcy (Scotland) Act 2016  
Section 51(8) and (9)

This form should be completed by a qualified Insolvency Practitioner if:

- 1) a debtor applies for an award of sequestration under section 2, 5 or 6 of the Bankruptcy (Scotland) Act 2016,
- 2) the debtor nominated the Insolvency Practitioner to act as the trustee in the sequestration, and
- 3) the Insolvency Practitioner undertakes to so act.

**Undertaking**

I,	Insert Insolvency Practitioner's name
	Insert business address
	Town
	County
	Postcode

hold the necessary authorisation to act as an insolvency practitioner under Part 13 (insolvency practitioners and their qualification) of the Insolvency Act 1986 to enable me to act as a trustee in sequestration in respect of this debtor under the Bankruptcy (Scotland) Act 2016.

Authorising professional body (or other authority)

I undertake, if appointed by the Accountant in Bankruptcy to do so, to act as the trustee in the sequestration of

	Insert debtor's name
	Insert debtor's address
	Town
	County
	Postcode

Signed \_\_\_\_\_ Date \_\_\_\_\_  
(Insolvency Practitioner)

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

Form 13

**Statement of Undertakings**

Bankruptcy (Scotland) Act 2016  
Section 51(14) or 54(4)

I confirm that:

1. I have made full disclosure of all my assets, liabilities and income as at the date of bankruptcy in the Form 10 (Statement of Assets & Liabilities) or Form 4 (Statement for a Trust or Partnership etc).
2. I will notify my trustee if I inherit, win or otherwise acquire any further assets during the period of 4 years after the date of bankruptcy.
3. I will immediately inform my trustee of any change of address or change in my financial circumstances during the period of 4 years after the date of bankruptcy.
4. I understand that I have a legal obligation to co-operate with my trustee and to provide any financial information or documents which may be required.
5. I understand that until I am discharged I may not, either alone or jointly with another person, obtain credit (which includes where goods are hired to me under a hire purchase agreement or agreed to be sold to me under a conditional sale agreement) either:
  - (a) of £2000 or more; or
  - (b) of any amount, where, at the time of obtaining credit, I have debts amounting to £1000 or morewithout informing the person from whom I obtain it of my bankruptcy.
6. I understand that, until I am discharged I am subject to certain restrictions on the appointments I may take up or offices I may hold, including that I may not be a member of the UK or Scottish parliament or a justice of the peace.
7. I understand that until I am discharged I may not act as a director of a limited company or be involved directly or indirectly in the promotion, formation or management of a limited company without the leave of the court.
8. I understand that after 12 months from the date on which the sheriff awarded my bankruptcy the Accountant in Bankruptcy may discharge me and my discharge may be dependent on my compliance with this statement of undertakings.
9. I understand that I may be required by my trustee to undergo financial education and that my discharge may be dependent on completion of this financial education.

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

10. I understand that any assets which vested in my trustee at the date of bankruptcy, and which have not been sold, realised or ingathered by my trustee, will continue to vest in my trustee notwithstanding my discharge.

11. I understand that any assets acquired by me during 4 years after the date of bankruptcy and which would have vested in my trustee if they had been part of my estate at that will vest in my trustee and any such assets which have not been sold, realised or ingathered by my trustee, will continue to vest in my trustee notwithstanding my discharge.

12. I understand that my circumstances will be assessed for the purpose of a debtor contribution order and that my discharge may be dependent on compliance with that order.

13. I understand that my ongoing liabilities, e.g. utility payments, may not be included in the sequestration and I may still have a duty to pay them.

I can confirm that I understand and agree to comply with the undertakings 1 – 13.

Signed	_____	Witness	_____
		Signature	
Print name	_____	Print name	_____
Date	_____	Date	_____

#### Notes

References in this Statement of Undertakings to:-

"the date of bankruptcy" are to:-

(i) the date on which the Sheriff granted warrant to require you to appear before the Sheriff to decide whether you should be made bankrupt; or

(ii) where more than one such warrant was granted, the date on which the first such warrant was granted.

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

Form 14

**Application to Resign from Office as Trustee in Sequestration**

Bankruptcy Scotland Act 2016  
Section 69(1)

**Note**

Section 69(1) of the Bankruptcy (Scotland) Act 2016 provides that the trustee may apply to the Accountant in Bankruptcy for authority to resign office.

**Application**

I,	Insert insolvency practitioner's name
	Insert business address
	Town
	County
	Postcode

was appointed as trustee in the sequestration of

	Insert debtor's name
	Insert debtor's address
	Town
	County
	Postcode

by

- \* the Accountant in Bankruptcy
- \* the Sheriff at \_\_\_\_\_ (insert name of Court)
- on \_\_\_\_\_ (insert date of appointment).

I apply to the Accountant in Bankruptcy for authority to resign from office as trustee in sequestration on the grounds that

- \* I am unable to act
  - \* I should not continue to act
- for the following reason(s)

\_\_\_\_\_  
\_\_\_\_\_

Signed \_\_\_\_\_ (trustee)

Date \_\_\_\_\_

\* delete as appropriate

Form 15

**Notice of Abandonment of Heritable Property by Trustee in Sequestration  
where Accountant in Bankruptcy not the Trustee**

Bankruptcy (Scotland) Act 2016  
Section 87(8)

**Notice of Abandonment**

I,	Insert insolvency practitioner's full name
	Insert business address
	Town
	County
	Postcode

was appointed trustee in the sequestration of

	Insert debtor's full name
	Insert debtor's address
	Town
	County
	Postcode

by

\* the Accountant in Bankruptcy

\* the Sheriff at \_\_\_\_\_ (insert name of Court)

on \_\_\_\_\_ (insert date of appointment).

The award of sequestration was recorded in the Register of Inhibitions on \_\_\_\_\_  
(insert date).

\* I am a replacement trustee having been appointed by \_\_\_\_\_  
on the above date (see note 3)

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

The trustee certifies—

1. That the debtor's sequestrated estate included the debtor's interest in the heritable property known as and forming (and referred to in this notice as "the property"):-

	Insert address of property
	Town
	County
	Postcode
	Description of property (see note 4)
	Land Register title number (see note 4)

to which the debtor first acquired right by virtue of title

\*registered in the Land Register of Scotland

\*recorded in the Division of the General Register of Sasines for the County of \_\_\_\_\_

on \_\_\_\_\_ (insert date when subjects were registered, see note 4)

and the trustee became vested in the debtor's share and interest therein.

2. That no disposition or other conveyance by the trustee or otherwise conveying the debtor's share and interest or former interest in the property has been executed by the trustee or delivered to the debtor.

3. That the trustee by execution of these presents confirms that the trustee has abandoned the property to the debtor and has renounced and hereby renounces and abandons any claim to the debtor's share and interest or former share or interest in and to the property.

\*4. That the property has been abandoned in consideration of a payment of £ \_\_\_\_\_ (insert amount if appropriate) which has been made to the sequestrated estate (see note 5).

5. That no statement in this notice affects the trustee's right to funds received by the debtor prior to the debtor's discharge under section 137 of the Bankruptcy (Scotland) Act 2016.

6. That the trustee consents to registration of these presents for publication and preservation.

Signed \_\_\_\_\_ (trustee)

Date \_\_\_\_\_

\* delete as appropriate



#### Notes

1. This form shall be used by the trustee in sequestration (where the trustee is not the Accountant in Bankruptcy) to notify a debtor that any heritable property which vests in the trustee has been abandoned to the debtor.
2. The trustee in sequestration shall send a certified copy of this form to the Keeper of the Registers of Scotland to be recorded in the register of inhibitions. The certificate should be signed by the trustee and added at the foot of the last page of the copy. The certificate should state that it is a true copy. A copy should then be sent to the debtor forthwith.
3. Where the trustee signing this form is a replacement trustee (rather than the original trustee) the trustee must narrate details of how the trustee was appointed.
4. A description sufficient to identify the extent of and title to the property is required. If the property is held on a title recorded in the General Register of Sasines, a description in conformity with schedule D or J to the Conveyancing (Scotland) Act 1924 may be used. If the property is registered in the Land Register of Scotland, the title number should be inserted.
5. Paragraph 4 should be deleted if no payment was received in consideration of the subjects.

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397



Form 16

**Notice of Abandonment of Heritable Property where the Accountant in Bankruptcy is the Trustee in Sequestration**

Bankruptcy (Scotland) Act 2016  
section 87(8)

**Notice of Abandonment**

	Insert debtor's full name
	Insert debtor's address
	Town
	County
	postcode

was sequestrated on \_\_\_\_\_ (insert date of sequestration) by

\* the Accountant in Bankruptcy, and the Accountant in Bankruptcy was deemed to be appointed the trustee in the sequestration

\* the Sheriff at \_\_\_\_\_ (insert name of Court), and the Accountant in Bankruptcy was appointed to be the trustee in the sequestration

The Accountant in Bankruptcy was appointed as trustee on \_\_\_\_\_ (insert date of appointment).

The award of sequestration was recorded in the Register of Inhibitions on \_\_\_\_\_ (insert date).

The Accountant in Bankruptcy certifies—

1. That the debtor's sequestrated estate included the debtor's interest in the heritable property known as and forming (and referred to in this notice as "the property")

	Insert address of property
	Town
	County
	Postcode
	Description of property (see note 3)
	Land Register title number (see note 3)

to which the debtor first acquired right by virtue of title

\*registered in the Land Register of Scotland

\*recorded in the Division of the General Register of Sasines for the County of \_\_\_\_\_

on \_\_\_\_\_ (insert date when subjects were registered, see note 3)

and the trustee became vested in the debtor's share and interest therein.

2. That no disposition or other conveyance by the trustee or otherwise conveying the debtor's share and interest or former interest in the property has been executed by the trustee or delivered to the debtor.

3. That the trustee by execution of these presents confirms that the trustee has abandoned the property to the debtor and has renounced and hereby renounces and abandons any claim to the debtor's share and interest or former share or interest in and to the property.

\*4. That the property has been abandoned in consideration of a payment of £ \_\_\_\_\_ (insert amount if appropriate) which has been made to the sequestrated estate (see note 4).

5. That no statement in this notice affects the trustee's right to funds received by the debtor prior to the debtor's discharge under section 138 of the Bankruptcy (Scotland) Act 2016.

6. That the trustee consents to registration of these presents for publication and preservation.

Signed \_\_\_\_\_ (insert name)

\*Accountant in Bankruptcy/Depute Accountant/Authorised Delegate of the Accountant

Date \_\_\_\_\_ (insert date)

\*delete as appropriate

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: *The Bankruptcy (Scotland) Regulations 2016 No. 397*

**Notes**

1. This form shall be used by the Accountant in Bankruptcy, where appointed or deemed to have been appointed as trustee in sequestration under section 51(3) or (12) of the Bankruptcy (Scotland) Act 2016, to notify a debtor that any heritable property which vests in the trustee has been abandoned to the debtor.
2. The Accountant in Bankruptcy shall send a certified copy of this form to the Keeper of the Registers of Scotland to be recorded in the register of inhibitions. Except where the information set out in this form is transmitted to the Keeper of the Registers of Scotland in an approved electronic format, this certificate must be marked by an appropriate official stamp. The certificate should be signed and the status of the certifying officer must be specified. The certificate should be added to the foot of the last page of the copy. The certificate should state that it is a true copy and the date on which the notice was given to the debtor.
3. A description sufficient to identify the extent of and title to the property is required. If the property is held on a title recorded in the General Register of Sasines, a description in conformity with schedule D or J to the Conveyancing (Scotland) Act 1924 may be used. If the property is registered in the Land Register of Scotland, the title number should be inserted.
4. Paragraph 4 should be deleted if no payment was received in consideration of the subjects.

(bankruptcy ref)



Form 17

**Debtor Contribution Order (Debtor Application)**

Bankruptcy (Scotland) Act 2016  
Section 90(1)(a)

The Accountant in Bankruptcy having awarded the bankruptcy of,

(Insert debtor's name)

(Insert debtor's address)

(Town)

(Postcode)

("the debtor")

and having assessed the debtor's circumstances using the Common Financial Tool specified under section 89 of the Bankruptcy (Scotland) Act 2016, fixes the debtor's contribution as and requires the debtor to pay the sum of £ (amount) per (payment interval) with a start date of (dd/mm/yy) and an end date of (dd/mm/yy) representing a period of 48 months or another period as specified in this order under section 91(2) of the Bankruptcy (Scotland) Act 2016. This period and amount may be subject to variation under that section and section 95 of that Act.

\*As agreed a third person will pay the trustee a specified proportion of money due to the debtor by way of income in accordance with section 90(6) of the Bankruptcy (Scotland) Act 2016. The details are as follows:

**\*(full details of arrangement)**

Issued by the Accountant in Bankruptcy  
(dd/mm/yyyy)

\*delete as appropriate

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

(bankruptcy ref)



Form 18

**Debtor Contribution Order  
(Petition for Sequestration)**

Bankruptcy (Scotland) Act 2016  
Section 90(1)(b)

The Accountant in Bankruptcy having considered the proposal by,

(Insert name of trustee)

in the bankruptcy of,

(Insert debtor's name)

(Insert debtor's address)

(Town)

(Postcode)

and having confirmed that the debtor's circumstances have been assessed using the Common Financial Tool as prescribed under section 89(1) of the Bankruptcy (Scotland) Act 2016, fixes the debtor's contribution as and requires the debtor to pay the sum of £ (amount) per (payment interval) with a start date of (dd/mm/yy) and an end date of (dd/mm/yy) representing a period of 48 months or another period as specified in section 91(2) of the Bankruptcy (Scotland) Act 2016. This period and amount may be subject to variation under that section and section 95 of that Act.

\*As agreed a third person will pay the trustee a specified proportion of money due to the debtor by way of income in accordance with section 90(6) of the Bankruptcy (Scotland) Act 2016. The details are as follows:

**\*(full details of arrangement)**

Issued by the Accountant in Bankruptcy  
(dd/mm/yyyy)

\*delete as appropriate

Form 19  
**Debtor's payment instruction to employer or third person**  
Bankruptcy (Scotland) Act 2016  
Section 94(2)

**Employee/Debtor's instruction to employer or third person**

I,	Insert employee/debtor's name
	Address
	Town
	Postcode
	Bankruptcy reference number
	Employee or third person reference number (if applicable)

authorise my employer, or third person due to make payments to me,

	Insert employer/third person's name
	Address
	Town
	Postcode

to deduct the sum of £(amount) from my income on each pay day or the day upon which payment is next due to be made to me and pay this amount, as soon as reasonably practicable, to the trustee in my bankruptcy detailed below:

	Insert trustee's name
	Address
	Town
	Postcode

**using the following bank details and quoting the relevant trustee reference number,**

	Insert name of bank
	Address
	Town
	Postcode
	Sort code
	Account number
	Trustee's reference number

Note to employer or third person: It is your duty under section 94(5) of the Bankruptcy (Scotland) Act 2016 to comply with this instruction.

Employee/Debtor's signature \_\_\_\_\_ Date \_\_\_\_\_

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

Form 20  
**Trustee's payment instruction to employer or third person**  
 Bankruptcy (Scotland) Act 2016  
 Section 94(4)

**Trustee's instruction to employer or third person**

I,	Insert trustee's name
	Address
	Town
	Postcode

confirm that,

	Insert employee/debtor's name
	Address
	Town
	Postcode
	Bankruptcy reference number
	Employee or third person reference number (if applicable)

has failed to pay his/her required contribution to his/her bankruptcy in accordance with section 94(4) of the Bankruptcy (Scotland) Act 2016. Therefore I now instruct,

	Insert employer/third person name
	Address
	Town
	Postcode

in accordance with Section 94(4) of the Bankruptcy (Scotland) Act 2016, to deduct the sum of £(amount) from the income of the above noted employee on each pay day or the debtor on the day on which next payment is due to be made to them. Deductions should be **paid in the following account and quote the relevant trustee reference number:**

	Insert name of bank
	Address
	Town
	Postcode
	Sort code
	Account number
	Trustee's reference number

Note to employer or third person: It is your duty under section 94(5) of the Bankruptcy (Scotland) Act 2016 to comply with this instruction.

Trustee's signature \_\_\_\_\_ Date \_\_\_\_\_



Form 21  
**Payment variation instruction to employer or third person**  
Bankruptcy (Scotland) Act 2016  
Section 94 – variation

**Instruction to employer or third person**

Debtor who has been sequestrated-

	Insert employee/debtor's name
	Address
	Town
	Postcode
	Bankruptcy Reference number
	Employee or third person reference number (if applicable)

\*[I authorise my employer or third person due to make payments to me]-

\*[The debtor above has failed to pay his/her required contribution to his/her bankruptcy in accordance with section 94(4) of the Bankruptcy (Scotland) Act 2016 – therefore I now instruct] -

	Insert employer/third person's name
	Address
	Town
	Postcode

to vary the sum of £(amount) currently being deducted from \*[my/the debtors] income to £(amount) with effect from the next pay day or the day upon which payment is next due to be made, and for the new amount to be paid, as soon as reasonable practicable after each pay day thereafter, to \*[my trustee/me as trustee],

	Insert trustee's name
	Address
	Town
	Postcode

**using the following bank details and quoting the relevant trustee reference number,**

	Insert name of bank
	Address
	Town
	Postcode
	Sort code
	Account number
	Trustee's reference number

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

Note to employer or third person: It remains your duty under section 94(5) of the Bankruptcy (Scotland) Act 2016 to comply with this instruction.

\* [Employee/Debtor's OR Trustee's] signature \_\_\_\_\_

Date \_\_\_\_\_

\* Delete as appropriate

Form 22

**Notice by Trustee of Proceedings to Obtain Authority in Relation to Debtor's Family Home**

Bankruptcy (Scotland) Act 2016  
Section 113(4) and (5)

Note to Trustee

This form of notice must be used to give notice to a local authority of an application made under section 113(2) and (3) of the Bankruptcy (Scotland) Act 2016. This notice must be sent before commencing proceedings in accordance with section 113(4) of the 2016 Act.

Notice by

Trustee in Sequestration, or

Trustee under a Trust Deed

of Application to Court to obtain the authority of the sheriff to sell or dispose of rights and interests in debtor's family home

To: \_\_\_\_\_

(Name of local authority in whose area the property referred to in the application or proceedings is situated)

Take note that an application to court will be made as detailed below to obtain the authority of the sheriff to sell or dispose of rights and interests in a debtor's family home.

(Please give the following information)

Name and address of the trustee:

	Insert trustee's name
	Insert trustee's address
	Town
	County
	Postcode

\_\_\_\_\_ Case Reference Number

Name and address of the trustee's legal representatives:

	Insert trustee's legal representatives' name
	Insert trustee's legal representatives' address
	Town
	County
	Postcode

Contact telephone number of the trustee:

\_\_\_\_\_

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

Name of debtor:

Name of occupier (if not the debtor):

Full postal address of property that is subject to proceedings:  
 Insert property address  
  
 Town  
 County  
 Postcode

Recording/registration date of standard security over the property (if applicable)

Court in which application is to be made:

Signature of Trustee

Date

Form 23

**Debtor's Account of Current State of Affairs**

Bankruptcy (Scotland) Act 2016  
Section 116(2)

Bankruptcy of :

Case reference number:

**WARNING TO THE DEBTOR**

It is a criminal offence under section 87(1) of the Bankruptcy (Scotland) Act 2016 for you to fail to notify your trustee of any assets acquired by you for a period of 4 years after the date of bankruptcy.\*

On summary conviction you may be liable to a fine not exceeding £5000, or imprisonment for a maximum period of 3 months, or both.

**CERTIFICATION**


Insert name

Address

Town

County

Postcode

Telephone number

I confirm that the information I have provided in this form is complete and correct. I have read the above warning and I understand that if I fail to divulge assets acquired by me or if I have provided information which is known to be false that I may be subject to prosecution. I certify that the details provided in this form are true, complete and accurate to the best of my knowledge.

*"the date of bankruptcy" is-*

- (a) where your bankruptcy was awarded following presentation of a petition for sequestration -
  - (i) the date on which the sheriff granted warrant to require you to appear before the sheriff to decide whether you should be made bankrupt; or
  - (ii) where more than one such warrant was granted, the date on which the first such warrant was granted.

(b) where your bankruptcy was awarded following a debtor application, the date bankruptcy was awarded.

Signature of debtor: \_\_\_\_\_

Date: \_\_\_\_\_

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

### **Completion Guidance**

You should complete this application pack using **BLACK INK** and **CAPITAL LETTERS** throughout.

#### **The information on this page will help you complete the next page.**

All sections of the questionnaire must be completed. If you feel that certain questions do not relate to your circumstances then you should write "not applicable".

If there is insufficient space provided for your answer, or if you have information which is not covered by any section but which your trustee should be made aware of, then additional sheets may be attached and submitted with this questionnaire.

- Q 1. (a) If you are working, provide details of your occupation.
- (b) Answer "yes" if Tax and National Insurance is deducted by your employer at source.
- (c) Provide details of your Gross Income (before deductions) from your payslip.
- (d) Advise if your employer is aware of your bankruptcy.
- Q2. Provide details of the type of benefits you receive, e.g. Universal Credit, Income support, Employment Support Allowance, Disability Living Allowance, and Working Tax Credits.
- You should also specify the amount and how often you are paid (weekly/fortnightly/monthly/4 weekly).
- Q3. (a) If you are self-employed, provide details of your occupation or job title.
- (b) Enter your average income. This should be the average weekly or monthly amount based on earnings over the last trading year.
- (c) Answer "yes" if you pay National Insurance contributions.

**Q1. Individuals in employment:**

- (a) Occupation:
- (b) Tax and National Insurance deducted by employer YES  NO
- (c) Gross income (before deductions)
- (d) Is your employer aware of your bankruptcy? YES  NO

**Note: Please attach your two most recent wage/salary slips. Any documents received will be returned to you after a copy has been taken.**

**Q2. Individuals in receipt of Social Security benefit(s) or Tax Credits:**

Benefit(s) claimed:

Type of benefit	Amount received	Frequency

**Q3. Individuals who are self-employed:**

- (a) Occupation:
- (b) Average income (gross):
- (c) Frequency of income (weekly, monthly etc):
- (d) Are you paying National Insurance contributions? YES  NO

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: *The Bankruptcy (Scotland) Regulations 2016 No. 397*

### Completion Guidance

You should complete this application pack using **BLACK INK** and **CAPITAL LETTERS** throughout.

**The information on this page will help you complete the next page.**

- Q4. (a) Answer "yes" if you receive any income in addition, or other than employment/benefit income (pensions annuities, grants, trusts, rents etc).
- If "yes" you should provide details of any payment received. Attach any documentation relating to the payment and return it with this form.
- (b) Answer "yes" if you have received any "one-off" payments since the date of bankruptcy or last report e.g. inheritances, gifts, pools/lottery wins, assurance policies, redundancy payments, or anything similar.
- If "yes" you should provide details of any payments received. Attach any documentation relating to the payment and return it with this form.
- Q5. Provide details of **ALL** bank accounts you hold, including details of the name of the bank, the branch, account type, account number and current balance.



**Q4 Income other than employment/benefits**

(a) Do you have any other source of income? YES  NO

If "yes" please provide details below:

Income type	Amount received	Date received

(b) Have you received any "one-off" payments? YES  NO

If "yes" please provide details below:

Income type	Amount received	Date received

**Q5 Details of bank, building society or savings account(s) operated by you:**

Name of bank/building society	Branch	Account type (current/savings)	Account number	Balance (£)

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

### **Completion Guidance**

You should complete this application pack using **BLACK INK** and **CAPITAL LETTERS** throughout.

**The information on this page will help you complete the next 4 pages.**

- Q6. In order for your circumstances to be assessed fairly it is important that we receive an accurate account of the household income and expenses from all occupants. If you fail to provide the income and expenses of all parties living in the household it will be assumed that all persons pay an equal share of the household expenses.

Over the next 4 pages of this form you are required to complete the tables provided with your income and expenditure.

**Q6. Income and Expenditure**

Total number of people in household  
 Number of dependent children under 14 in the household  
 Number of dependent children age 14-18 in the household


**Salary and wages**

Income	Amount (£)	Frequency
Debtor's salary/wages		
Partner's salary/wages		

**Pensions**

Pension(s)	Amount (£)	Frequency
State Pension(s)		
Private or work pension(s)		
Pension Credit		

**Other income**

Other income	Amount (£)	Frequency
Maintenance or child support		
Boarders or lodgers		
Non-dependant contribution		
Student loans or grants		
(To be completed with any other household income)		
(To be completed with any other household income)		
(To be completed with any other household income)		

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

**Benefits**

Type of benefit	Amount (£)	Frequency
Jobseeker's Allowance		
Income Support		
Working Tax Credits		
Child Tax Credits		
Child Benefit		
Employment and Support Allowance		
DLA, PIP or attendance allowance		
Carer's Allowance		
Housing Benefit/Local Housing Allowance		
Council Tax Reduction		
Universal Credit		
(Other)		
(Other)		
(Other)		

Please use the space provided below to give details of any benefit listed under "other"

<b>Essential expenditure</b>	<b>Amount</b>	<b>Frequency</b>
Rent		
Ground rent, service charges, factor fees		
Mortgages		
Other Secured Loans		
Building and Content Insurance		
Pension and Life insurance		
Council Tax		
Gas		
Electricity		
TV Licence		
Magistrates or Sheriff Court Fines		
Maintenance or Child Support		
Hire Purchase/Conditional Sales		
Childcare Costs		
Adult Care Costs		

<b>Phone</b>	<b>Amount</b>	<b>Frequency</b>
Home Phone		
Mobile Phone(s)		

<b>Travel</b>	<b>Amount</b>	<b>Frequency</b>
Public Transport (work, school, shopping, etc)		
Car Insurance		
Vehicle Tax		
Fuel (Petrol, Diesel, Oil, etc)		
MOT and car maintenance		
Breakdown and Recovery		
Parking Charges or Tolls		

<b>Housekeeping</b>	<b>Amount</b>	<b>Frequency</b>
Food and Milk		
Cleaning and Toiletries		
Newspapers and Magazines		
Cigarettes Tobacco and Sweets		
Alcohol		
Laundry and dry cleaning		
Clothing and Footwear		
Nappies and baby items		
Pet Food		



Form 24

**Notice by Trustee: Public Examination of the Debtor or a Relevant Person**

Bankruptcy (Scotland) Act 2016  
Section 119(6)(a)

Sequestration of the estate of

Insert debtor's name

The sheriff at

Insert name of Sheriff Court

has ordered that a public examination of

Insert debtor's name

Insert debtor's address

Town

Postcode

will take place at

Insert address of place of examination

on

Insert day, date and time of examination

Signature of trustee \_\_\_\_\_ Date \_\_\_\_\_

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

(bankruptcy ref)



Form 25

**Debtor Certificate of Discharge  
(where Accountant in Bankruptcy not the trustee)**

Bankruptcy (Scotland) Act 2016  
Section 137(2)

I certify that [debtor name and address]

whose estate was sequestrated on [dd/mm/yyyy], is discharged under section 137(2) of the Bankruptcy (Scotland) Act 2016 on [dd/mm/yyyy].

Accountant in Bankruptcy  
[dd/mm/yyyy]



(bankruptcy ref)

**Debtor Certificate of Discharge  
(where Accountant in Bankruptcy not the trustee)**

Bankruptcy (Scotland) Act 2016  
Section 137(2)

Notes

The effect of this discharge is that, subject to the exceptions noted below, the debtor is discharged within the United Kingdom of all debts and obligations contracted by the debtor, or for which the debtor was liable, at the date of sequestration.

(1) Exceptions in section 145(3) of the Bankruptcy (Scotland) Act 2016:-

- any liability to pay a fine or other penalty due to the Crown;
- any liability under a confiscation order made under Part 2, 3 or 4 of the Proceeds of Crime Act 2002;
- any liability to pay a fine imposed in a justice of the peace court (or a district court);
- any liability under a compensation order within the meaning of section 249 of the Criminal Procedure (Scotland) Act 1995;
- any liability to forfeiture of a sum of money deposited in court under section 24(6) of the Criminal Procedure (Scotland) Act 1995;
- any liability incurred by reason of fraud or breach of trust;
- any obligation to pay aliment or any sum of an alimentary nature;
- any periodical allowance payable on divorce;
- court ordered child support maintenance;
- any obligation imposed on the debtor by section 215 (debtor to co-operate with trustee) of the Bankruptcy (Scotland) Act 2016.

(2) The discharge of the debtor does not affect any right of a secured creditor to enforce a security.

(3) The discharge of the debtor does not affect liability to repay a student loan.

(4) The discharge of the debtor does not affect:

- any continuing obligation of the debtor to pay to the trustee any debtor contribution under a Debtor Contribution Order as fixed by the Accountant in Bankruptcy or varied by the trustee or the court;
- any Bankruptcy Restrictions Order to which the debtor is subject.

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

(bankruptcy ref)



Form 26

**Debtor certificate of discharge  
(where the Accountant in Bankruptcy is the trustee)**

Bankruptcy (Scotland) Act 2016  
Section 138(2)

I certify that [debtor name and address]

Whose estate was declared bankrupt on [dd/mm/yyyy], was discharged under or by virtue of section 138(2) of the Bankruptcy (Scotland) Act 2016 on [dd/mm/yyyy].

Accountant in Bankruptcy  
[dd/mm/yyyy]

(bankruptcy ref)

**Debtor certificate of discharge**  
Bankruptcy (Scotland) Act 2016  
Section 138(2)

Notes

The effect of this discharge is that, subject to the exceptions noted below, the debtor is discharged within the United Kingdom of all debts and obligations contracted by the debtor, or for which the debtor was liable, at the date of sequestration.

(1) Exceptions in section 145(3) of the Bankruptcy (Scotland) Act 2016:

- any liability to pay a fine or other penalty due to the Crown;
- any liability under a confiscation order made under Part 2, 3 or 4 of the Proceeds of Crime Act 2002;
- any liability to pay a fine imposed in a district court;
- any liability under a compensation order within the meaning of section 249 of the Criminal Procedure (Scotland) Act 1995;
- any liability to forfeiture of a sum of money deposited in court under section 24(6) of the Criminal Procedure (Scotland) Act 1995;
- any liability incurred by reason of fraud or breach of trust;
- any obligation to pay aliment or any sum of an alimentary nature;
- any periodical allowance payable on divorce;
- court ordered child support maintenance;
- any obligation imposed on the debtor by section 215 (debtor to co-operate with trustee) of the Bankruptcy (Scotland) Act 2016.

(2) The discharge of the debtor does not affect any right of a secured creditor to enforce a security.

(3) The discharge of the debtor does not affect liability to repay a student loan.

(4) The discharge of the debtor does not affect:

- any continuing obligation of the debtor to pay to the trustee any debtor contribution under a Debtor Contribution Order as fixed by the Accountant in Bankruptcy or varied by the trustee or the court;
- any Bankruptcy Restrictions Order to which the debtor is subject.

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

(bankruptcy ref)



Form 27

**Debtor Certificate of Discharge  
(debtor to whom section 2(2) applies)**

Bankruptcy (Scotland) Act 2016  
Section 140(2)

I certify that [debtor name and address]

whose estate was sequestrated on [dd/mm/yyyy], is discharged under section 140(1) of the Bankruptcy (Scotland) Act 1985 (as amended) on [dd/mm/yyyy].

Accountant in Bankruptcy  
[dd/mm/yyyy]

(bankruptcy ref)

**Debtor Certificate of Discharge  
(debtor to whom section 2(2) applies)**

Bankruptcy (Scotland) Act 2016  
Section 140(2)

Notes

The effect of this discharge is that, subject to the exceptions noted below, the debtor is discharged within the United Kingdom of all debts and obligations contracted by the debtor, or for which the debtor was liable, at the date of sequestration.

- (1) Exceptions in section 145(3) of the Bankruptcy (Scotland) Act 2016:
- any liability to pay a fine or other penalty due to the Crown;
  - any liability under a confiscation order made under Part 2, 3 or 4 of the Proceeds of Crime Act 2002;
  - any liability to pay a fine imposed in a justice of the peace court (or a district court);
  - any liability under a compensation order within the meaning of section 249 of the Criminal Procedure (Scotland) Act 1995;
  - any liability to forfeiture of a sum of money deposited in court under section 24(6) of the Criminal Procedure (Scotland) Act 1995;
  - any liability incurred by reason of fraud or breach of trust;
  - any obligation to pay aliment or any sum of an alimentary nature;
  - any periodical allowance payable on divorce;
  - court ordered child support maintenance;
  - any obligation imposed on the debtor by section 215 (debtor to co-operate with trustee) of the Bankruptcy (Scotland) Act 2016.
- (2) The discharge of the debtor does not affect any right of a secured creditor to enforce a security.
- (3) The discharge of the debtor does not affect liability to repay a student loan.
- (4) The discharge of the debtor does not affect any Bankruptcy Restrictions Order to which the debtor is subject.

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

(bankruptcy ref)

Form 28

**Deferral Notice**

Bankruptcy (Scotland) Act 2016  
Section 141(2)(a)

I,	Insert trustee's name
	Insert business address
	Town
	County
	Postcode

was appointed as trustee in the sequestration of

	Insert debtor's name
	Insert debtor's address
	Town
	County
	Postcode

("the debtor")

by

\* the Accountant in Bankruptcy

\* the Sheriff at \_\_\_\_ (insert name of Court)

on \_\_\_\_ (insert date of appointment).

I confirm that

(a) having made reasonable enquiries, I am unable to ascertain the whereabouts of the debtor; and

(b) as a result, I am unable to carry out my functions as trustee in accordance with section 50 of the Bankruptcy (Scotland) Act 2016.

Signature of trustee \_\_\_\_\_ Date \_\_\_\_\_

\* delete as appropriate

**RECIPIENTS OF THIS FORM: PLEASE READ THE NOTES WHICH FOLLOW**

(bankruptcy ref)

**Notes**

This notice is sent to the last known address of the debtor to give notice that the trustee acting in the debtor's bankruptcy cannot trace the debtor, and so is proposing to defer the debtor's discharge indefinitely. The notice is given under section 141(2)(a) of the Bankruptcy (Scotland) Act 2016.

This notice must also be given to every creditor known to the trustee (section 141(2)(b) of that Act).

- Where the Accountant in Bankruptcy is not the trustee, the trustee must, as well as sending this notice, apply to the Accountant in Bankruptcy for the deferral (in Form 29 under section 141(2)(c) of that Act). Any interested person **may make representations** to the Accountant in Bankruptcy **within 14 days beginning with the day on which the application for deferral is made.**

- Where the Accountant in Bankruptcy is the trustee, and has given deferral notice under section 141(2)(b) any interested person **may make representations** to the Accountant in Bankruptcy **within 14 days beginning with the day on which this deferral notice is given.**

In either case the Accountant in Bankruptcy must take such representations into account in deciding whether to issue a certificate deferring indefinitely the discharge of the debtor.

If the Accountant in Bankruptcy is satisfied that:-

- where the Accountant in Bankruptcy is not the trustee, the trustee is unable to ascertain the whereabouts of the debtor, and

- it would not be reasonably practicable for the trustee to continue to search for the debtor

the Accountant in Bankruptcy must issue a certificate deferring indefinitely the discharge of the debtor.

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

(bankruptcy ref)

Form 29

**Application for Deferral**

Bankruptcy (Scotland) Act 2016  
Section 141(2)(c)

**Application**

I,	Insert trustee's name
	Insert business address
	Town
	County
	Postcode

was appointed as trustee in the sequestration of

	Insert debtor's name
	Insert debtor's address
	Town
	County
	Postcode

("the debtor")

by

\* the Accountant in Bankruptcy

\* the Sheriff at \_\_\_\_\_ (insert name of Court)

on \_\_\_\_\_ (insert date of appointment).

I apply to the Accountant in Bankruptcy for deferral of the discharge of the debtor.

I confirm

- (i) following reasonable enquiries I am unable to ascertain the debtor's whereabouts;
- (ii) as a result, I am unable to carry out my functions as trustee in accordance with section 50 of the Bankruptcy (Scotland) Act 2016;
- (iii) I have notified the debtor by sending a Form 28 deferral notice to the debtor's last known address; and



(bankruptcy ref)

(iv) I have given a Form 28 deferral notice to every known creditor.

I confirm that this application is made

(i) no earlier than the date which is 8 months after the date of bankruptcy award;

and

(ii) no later than the date which is 10 months after that date.

Signature of trustee \_\_\_\_\_ Date \_\_\_\_\_

\* delete as appropriate

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

3. Evidence in support of your application.

(bankruptcy ref)



Form 30

**Certificate of Deferral of Discharge**

Bankruptcy (Scotland) Act 2016  
Section 141(4)(b) or (6)(b)

Bankruptcy of (debtor name)

[debtor name]  
[debtor address]

("the debtor")

In terms of section 141 of the Bankruptcy (Scotland) Act 2016, I defer indefinitely the discharge of the debtor.

Accountant in Bankruptcy  
[dd/mm/yyyy]

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

Form 31

(bankruptcy ref)

**Trustee Application for Authority to Resign Office**

Bankruptcy (Scotland) Act 2016  
section 142(2)

**Application**

I,	Insert trustee's name
	Insert business address
	Town
	County
	Postcode

was appointed as trustee in the sequestration of

	Insert debtor's name
	Insert debtor's address
	Town
	County
	Postcode

("the debtor")

by

\* the Accountant in Bankruptcy

\* the Sheriff at \_\_\_\_\_ (insert name of Court)

on \_\_\_\_\_ (insert date of appointment).

I apply to the Accountant in Bankruptcy for authority to resign from office as trustee.

Certificate of deferral under section 141(4)(b) of the Bankruptcy (Scotland) Act 2016 was awarded on:  
(dd/mm/yyyy)

I confirm, under reference to section 142(4)(a) of that Act, that:-

(i) following award of the certificate of deferral I have not ascertained the debtor's whereabouts and the debtor has not made contact with me;

and

(ii) this application is made not more than 6 months after the date on which the certificate of deferral was awarded.

Signature of trustee \_\_\_\_\_ Date \_\_\_\_\_

\* delete as appropriate

(bankruptcy ref)

**Creditors**

(Please use this section to provide details of all known creditors)  
(Name, address, reference, amount claimed)

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

(bankruptcy ref)

**Further Information**

(please use this section to provide any further information to support your application)

(bankruptcy ref)



Form 32

**Notice Granting Trustee Authority to Resign Office**

Bankruptcy (Scotland) Act 2016  
Section 142(5)

In terms of section 142(5) of the Bankruptcy (Scotland) Act 2016, I hereby grant;

**[trustee name]**  
**[trustee address]**

authority to resign office as trustee in the sequestration of  
**[debtor name and address]**

Accountant in Bankruptcy  
**[dd/mm/yyyy]**

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397



Form 33

**Moratorium – Notice of Intention to Apply**

Bankruptcy (Scotland) Act 2016  
Section 195(1)

*I/We,	Insert full name(s)
	Previous names (if applicable)
(see note 1)	
as executor(s), or person(s) entitled to be appointed executor(s), on the estate of	Enter name of deceased (if applicable)
(see note 2)	
	Previous names of deceased (if applicable)
(see note 2)	
on behalf of	Enter name of entity (if applicable) and type of legal person
(see note 3)	
	Address
(see note 4)	
	Town
(see note 4)	
	Postcode
(see note 4)	
	Date of birth
(see note 5)	

give notice, in accordance with section 195(1) of the Bankruptcy (Scotland) Act 2016, of intention to either:

- a. make a debtor application for sequestration under section 2(1)(a) of the Bankruptcy (Scotland) Act 2016; or
- b. seek to fulfil the conditions required in order for a trust deed granted by or on behalf of \_\_\_\_\_ (see note 6) to be granted the status of protected trust deed; or



**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

- c. apply for the approval of a debt payment programme in accordance with section 2 of the Debt Arrangement and Attachment (Scotland) Act 2002 (as amended).

\*I/We have/The above entity has not given notice under section 195(1) of the Bankruptcy (Scotland) Act 2016 in the past 12 months.

\*I/We accept that, in accordance with section 195 of the Bankruptcy (Scotland) Act 2016, the Accountant in Bankruptcy will enter the name and address information provided in this form in the public Register of Insolvencies and the public DAS Register.

Signed \_\_\_\_\_

Print name \_\_\_\_\_

Date \_\_\_\_\_

\*delete as appropriate

**Notes for completion**

(1) Complete where you are filling in Form 33 in your own right. Otherwise leave blank.

(2) Complete if you are filling in Form 33 as executor, or person entitled to be appointed executor, on the estate of a deceased individual. Otherwise leave blank.

(3) Complete where you are filling in Form 33 on behalf of an entity (eg partnership etc.) which wishes to give notice of its intention to either seek to fulfil the conditions for a trust deed to be a protected trust deed or to apply for the approval of a debt payment programme – see, in particular, section 195(1)(b) and (c) of the Bankruptcy (Scotland) Act 2016. For “type of legal person” indicate if the person (i.e. the entity) giving notice is a partnership, limited partnership, trust, corporate body (other than a company, Limited Liability Partnership or other body which cannot be subject to a protected trust deed or debt payment programme under the Debt Arrangement Scheme) or unincorporated body of persons. Otherwise leave blank.

Form 34 is the form of written notice for the purposes of section 196 of the Bankruptcy (Scotland) Act 2016 for use where an entity wishes to give notice of its intention to make a debtor application for sequestration under section 6 of that Act.

- (4) Complete to provide:
- your own address, where you are filling in Form 33 in your own right,
  - the last address of the deceased, if you are filling in Form 33 as executor, or person entitled to be appointed executor, on the estate of a deceased individual, or
  - the entity’s address, if you are filling in Form 33 on behalf of an entity.

(5) Complete to provide:

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Bankruptcy (Scotland) Regulations 2016 No. 397

- your own date of birth, where you are filling in Form 33 in your own right, or
- the deceased's date of birth, if you are filling in Form 33 as executor, or person entitled to be appointed executor, on the estate of a deceased individual.

If you are filling in Form 33 on behalf of an entity, leave blank.

(6) If applicable, enter the person who granted the trust deed/on whose behalf the trust deed was granted.

**Note that accurate information must be provided for the protection of the moratorium to apply.**



Form 34

**Moratorium – Notice of Intention to Apply (Trust, Partnership etc.)**

Bankruptcy (Scotland) Act 2016  
Section 196(1)

I,	Insert your full name
on behalf of,	Enter name of Entity
	Entity address
	Town
	Postcode

give notice in accordance with section 196(1) of the Bankruptcy (Scotland) Act 2016 of the above entity's intention to make a debtor application for sequestration under section 6 of that Act.

I confirm that notice has not been given under section 196(1) in respect of the above entity's estate in the past 12 months.

I accept that, in accordance with section 196 of the Bankruptcy (Scotland) Act 2016, the Accountant in Bankruptcy will enter my name and the name and address of the above entity in the public Register of Insolvencies.

Signed \_\_\_\_\_

Print name \_\_\_\_\_

Date \_\_\_\_\_

SCHEDULE 2

Regulation 30

REGISTER OF INSOLVENCIES

**A. Sequestrations**

- Name of debtor
- Debtor's date of birth (where known)
- Debtor's residence and any former residence within the past 5 years and principal place of business (if any) at date of sequestration or date of death
- Date of death in case of deceased debtor
- Occupation of debtor
- Whether sequestration awarded by sheriff or by AiB
- Date of any order converting protected trust deed to sequestration
- Whether sequestration under paragraph 1 of schedule 1 of the Act (the Minimal Asset Process ("MAP"))
- Name and address of petitioner for sequestration (where applicable)
- Court by which sequestration awarded (where applicable)
- Date of presentation of petition (where applicable)
- Date of first order (where applicable)
- Date of award of sequestration
- Particulars of petition for recall of sequestration(39) (where applicable)
- Date of recall of sequestration (where applicable)
- Name and address of trustee and date of appointment
- Level of debt when trustee's statement of debtor's affairs is produced
- Level of assets when trustee's statement of debtor's affairs is produced
- Name and address of trustee (or replacement trustee) and date of confirmation of appointment
- Particulars of notice of public examination of debtor or relevant person(40) (where applicable)
- If the MAP ceases to apply
- Issue of certificate deferring debtor's discharge indefinitely(41) (where applicable)
- Particulars of any application for removal of trustee(42) and any order removing trustee or declaring office vacant
- Date of debtor's discharge and whether on composition or by operation of law
- Date of trustee's discharge(43) and of any decision to grant or refuse certificate of discharge
- Period of any MAP bankruptcy credit restriction following discharge(44)

**B. Protected trust deeds for creditors**

- Name and address of granter of trust deed
- Granter's date of birth (where known)

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(39) As provided for in section 29(5) of the Act.

(40) As provided for in section 119(7) of the Act.

(41) As provided for in section 141(7) of the Act.

(42) As provided for in section 70(4)(b) of the Act.

(43) As required by section 149(8)(a) of the Act.

(44) Under section 146 or 147 of the Act.

Address of the centre of main interests and all establishments, within the meaning of the Council Regulation (EC) No 1346/2000<sup>(45)</sup>, of the granter of the trust deed, unless the granter of the trust deed is an undertaking as described in Article 1(2) of the said Council Regulation

Whether the protected trust deed is considered to be main or territorial proceedings within the meaning of the said Council Regulation

The location and nature of any other insolvency proceedings

Name and address of trustee under deed

Date (or dates) of execution of deed

Date on which copy deed and certificate of accession was registered

Date of registration of statement indicating how the estate was realised and distributed and certificate to the effect that the distribution was in accordance with the trust deed

Date of trustee's discharge

Date of registration of copy of order of court that non-acceding creditor is not bound by trustee's discharge

### **C. Bankruptcy Restrictions Orders, Interim Bankruptcy Restrictions Orders and Bankruptcy Restrictions Undertakings**

Name of debtor

Debtor's date of birth (where known)

Date of sequestration

Date of making of bankruptcy restrictions order or interim bankruptcy restrictions order

Date of acceptance of bankruptcy restrictions undertaking

Date of order varying bankruptcy restrictions order or bankruptcy restrictions undertaking (where applicable)

Date of annulment or revocation of bankruptcy restrictions order or bankruptcy restrictions undertaking (where applicable)

Date of discharge of bankruptcy restrictions undertaking (where applicable)

Date bankruptcy restrictions order, interim bankruptcy restrictions order or bankruptcy restrictions undertaking ceased to have effect

### **D. Moratorium**

Notice of intention to apply – moratorium on diligence<sup>(46)</sup> (where applicable)

### **E. Winding up and receivership of business associations**

Company number

Company name

Type of proceedings

Name of office holder(s)

Date of appointment of office holder(s)

Date of termination of appointment of office holder(s)

Date of winding-up order (for compulsory liquidations)

Court by which company wound up

<sup>(45)</sup> Council Regulation (EC) No. 1346/2000 of 29th May 2000 on insolvency proceedings (OJ L 160, 30.6.2000, p.19), replaced from 26th June 2017 by Regulation (EU) 2015/848 of the Council and the Parliament of 20th May 2015 on insolvency proceedings (OJ L 141, 5.6.2015, p.19).

<sup>(46)</sup> As provided for in section 195(1) or 196(1) of the Act.

## SCHEDULE 3

Regulation 32

## REVOCATIONS

<i>Regulations revoked</i>	<i>Extent of revocation</i>	<i>References</i>
The Bankruptcy (Certificate for Sequestration) (Scotland) Regulations 2010	The whole instrument.	<a href="#">S.S.I. 2010/397</a> , amended by <a href="#">S.S.I. 2014/296</a> .
The Bankruptcy (Scotland) Regulations 2014	Regulations 2(2) to 20, 22 to 24 and the schedules.	<a href="#">S.S.I. 2014/225</a> , amended by <a href="#">S.S.I. 2015/80</a> .
The Bankruptcy (Miscellaneous Amendments) (Scotland) Regulations 2015	Regulation 2.	<a href="#">S.S.I. 2015/80</a>
The Common Financial Tool etc. (Scotland) Regulations 2014	Regulations 1 to 5 and 11.	<a href="#">S.S.I. 2014/290</a> amended by <a href="#">S.S.I. 2015/149</a> .
The Common Financial Tool etc. (Scotland) Amendment Regulations 2015	The whole instrument.	<a href="#">S.S.I. 2015/149</a>
The Bankruptcy (Money Advice and Deduction from Income etc.) (Scotland) Regulations 2014	The whole instrument.	<a href="#">S.S.I. 2014/296</a> .

**EXPLANATORY NOTE***(This note is not part of the Regulations)*

These Regulations prescribe matters which fall to be prescribed by the Scottish Ministers under the Bankruptcy (Scotland) Act 2016 which consolidates Scottish bankruptcy legislation (“the Act”).

They apply from 30th November 2016 to sequestrations where the creditor petition for sequestration is presented, or the debtor application for sequestration is received by the Accountant in Bankruptcy (“AiB”), on or after that date (see section 236 of the Act).

They re-enact, with modifications, provisions of the Bankruptcy (Certificate for Sequestration) (Scotland) Regulations 2010, the Bankruptcy (Scotland) Regulations 2014, the Common Financial Tool etc. (Scotland) Regulations 2014, and the Bankruptcy (Money Advice and Deduction from Income etc.) (Scotland) Regulations 2014.

Regulation 3 and schedule 1 provide for the main forms to be used in relation to sequestration.

Regulation 4 prescribes persons who can act as money advisers in relation to sequestration, including the classes of—

- insolvency practitioners and persons who work for them who have been given authority by the insolvency practitioner to act on behalf of that insolvency practitioner
- persons approved for the purposes of the Debt Arrangement Scheme

persons working as money advisers for organisations awarded Type 2 against Scottish National Standards for Information and Advice Provision, full bureau members of the Scottish Association of Citizens Advice Bureaux – Citizens Advice Scotland; or councils.

Regulation 5 provides for who may not be a money adviser, including those whose approval is revoked by AiB in specific cases.

Regulation 6 prescribes additional matters on which debtors must obtain money advice in making a debtor application (an application made by a debtor to the Accountant in Bankruptcy for an award of sequestration under the Act). Regulation 7 sets out procedural requirements for obtaining money advice in connection with such a debtor application.

Regulations 8 to 10 provide for a Certificate for Sequestration of a debtor’s estate by money advisers who certify the debtor has demonstrated he or she is unable to pay his or her debts as they become due. A money adviser is entitled to rely on statements and paperwork provided by the debtor, in particular information provided as to financial circumstances declared in the form, which can be included in the debtor application. The prescribed period for granting a certificate is the 30 days before the date on which a debtor may apply (see section 2(10) of the Act). This is intended to allow flexibility to sign the certificate and debtor application on the same day.

Regulation 11 provides for when a debtor must be provided with a debt advice and information package prior to presentation of a creditor petition for sequestration.

Regulation 12 makes procedural provision for debtor applications.

Regulation 13 provides for “prescribed payments” of social security benefits as part for the criteria for eligibility for the Minimal Asset Process (“MAP”) where the debtor has few assets under section 2(2) of the Act. Regulation 14 lowers the total amount of assets a debtor may have before AiB is to consider whether the MAP ceases to apply to a debtor.

Part 3 of the Regulations makes provision for about the method for determining an appropriate amount of a living debtor’s income to be paid to a trustee after sequestration of the debtor’s estate, known as the “common financial tool” – see section 89 of the Act. It is used in making debtor contribution orders under Part 6 of the Act which fix the contribution a debtor must pay from income received after sequestration for the benefit of creditors.

Regulations 15 to 16 provide for the common financial tool, how income and expenditure of the debt is established by reference principally to the Common Financial Statement (the “CFS”) published by the Money Advice Trust. The debtor’s surplus income in excess of the lower of the debtor’s expenditure, or the “trigger figures” which are part of the CFS for a reasonable amount of expenditure is the basis of the contribution, and an amount of reasonable expenditure may be allowed to the debtor which exceeds those trigger figures. The debtor can retain up to an amount subject to certain limits from regular payments towards an allowance to meet contingencies which may arise for the debtor. Guidance is also to be set out by AiB on types of income and expenditure, verifying income and expenditure and money advisers’ functions. Supporting statements, explanation and evidence are required (regulation 17). AiB can in some cases related to debtor applications notify the Money Advice Trust where it appears money advisers have breached licence restrictions (regulation 18).

Regulation 20 provides for instructions by the debtor or trustee under section 94 of the Act to an employer or third party due to make payment to the debtor for deductions from earnings or other income. It also provides for how the instruction affects the recipient and what happens if the employer or third person refuse to pay the deduction.

Regulation 21 prescribes the circumstances in which a creditor may state the amount of the creditor’s claim in foreign currency for voting purposes at a statutory meeting and submission of claims to a trustee under sections 46 and 125 of the Act respectively.

Regulation 22 prescribes the manner in which the trustee is required to convert a creditor’s claim made in foreign currency for the purposes of proceedings at a statutory meeting and the adjudication of creditors’ claims under sections 48 and 126 of the Act respectively.

Regulation 24 provides for how notice is given to the debtor under section 87(8) of the Act where the trustee abandons to the debtor heritable property included in the debtor's sequestrated estate.

Regulation 25 provides for the courses of financial education which a debtor may be required to undertake by the trustee under section 117 of the Act.

Regulation 26 prescribes 8% per annum as the rate of interest to be paid on the preferred debts and the ordinary debts between the date of sequestration and the date of payment of the debt for the purposes of section 129 of the Act (order of priority in distribution of the debtor's estate).

Regulation 28 provides that the premium of any bond of caution or other security given by an insolvency practitioner in relation to acting as interim trustee or trustee may be taken into account as part of the insolvency practitioner's outlays in the sequestration.

Regulation 29 provides for forms of notice to be given by a person to trigger the moratorium on debt enforcement by diligence having effect under Part 15 of the Act.

Regulation 30 and schedule 2 re-enact provision for the register of insolvencies which AiB maintains (section 200(1)(c) of the Act refers).

Part 7 of the Regulations makes modifications of the Act in its application to limited partnerships.

Regulation 32 revokes the instruments re-enacted, subject to regulation 33 which saves provision for sequestrations where the creditor petition for sequestration is presented, or the debtor application for sequestration is received by AiB, before 30th November 2016, and for trust deeds executed before that date. For the avoidance of doubt, moratorium notices before that date of intention to apply under the Act will also be given effect to (regulation 34).

Regulation 21 of the Bankruptcy (Scotland) Regulations 2014 which restated the law on reserved matters prescribing £800 as the maximum amount which may be claimed as a preferred debt by an employee by way of remuneration or by a person under the Reserve Forces (Safeguard of Employment) Act 1985 remains in force (paragraphs 2 and 3 of schedule 3 of the Act consolidating paragraphs 5 and 6 of schedule 3 of the Bankruptcy (Scotland) Act 1985 refer).

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>.