
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the procedure for the making of applications to, and decisions by, the Accountant in Bankruptcy (“AiB”) under the Bankruptcy (Scotland) Act 2016 (“the Act”).

They apply to sequestrations as regards which a petition for sequestration is presented, or an application is made, on or after 30th November 2016 (and trust deeds for the benefit of creditors executed on or after that date). They replace and update the Bankruptcy (Applications and Decisions) (Scotland) Regulations 2014 for those sequestrations.

They prescribe forms to be used in relation to applications to AiB under the Act.

Regulations 4 to 8 make provision for general procedure to apply across different applications to AiB under the Act. They provide for how applications are made to AiB, including service of applications on other parties and the ability for AiB to make inquiries for further evidence or information.

Regulations 9 to 19 make particular procedural provision in relation to specific applications under the Act—

- section 31 application for recall where only ground that debtor has paid or is able to pay debts in full;
- section 52(2) application to AiB for direction by trustee;
- section 60(3)(a) objection to statutory meeting appointing a replacement trustee (by persons other than AiB);
- section 66(7)(a) to determine or appoint a replacement trustee acting in more than one sequestration;
- under sections 70(2)(a) and 72(3)(a) removal of trustee from office by AiB;
- under section 110(4)(b) extension of time limit for contractual powers of trustee;
- under section 155(2) proposal to make bankruptcy restrictions order;
- under section 159(3) to revoke or vary a bankruptcy restrictions order;
- under section 190(1) and (2) to convert a protected trust deed into sequestration;
- under section 212 a corrective order or to waive a time limit to cure a defect;
- where AiB puts a value on a debt under paragraph 3 of schedule 2 of the Act.

Regulation 20 makes provision for time limits following a reference being made to the sheriff by AiB.

Regulations 21 to 24 provide for additional procedure in review proceedings before AiB. AiB can appoint independent persons, including those with relevant expertise to assist AiB in relation to review applications (regulation 22). Staff involved in any initial decision of AiB under review must not be involved in review decisions (regulation 23). Review decisions of AiB must be made public (regulation 24).

Regulation 25 revokes the Bankruptcy (Applications and Decisions) (Scotland) Regulations 2014, subject to regulation 26, which provides that the Regulations do not apply to sequestrations as regards which the petition was presented, or the debtor application was made, or trust deeds executed, before 30th November 2016.

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

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>.