
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2018 No.

The Common Financial Tool (Scotland) Regulations 2018

Sequestrations and trust deeds before 29th October 2018

6.—(1) Except as mentioned in paragraphs (2) to (4) and (7), these Regulations have no effect in relation to—

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

29th October 2018.

(2) These Regulations have effect where—

- (a) an application is made on or after 29th October 2018 under section 95 of the 2016 Act to vary or quash a debtor contribution order; or
- (b) a trustee is considering on or after that date under that section whether to vary or quash a debtor contribution order.

(3) These Regulations have effect where—

- (a) an application is made on or after 29th October 2018 under section 32F of the 1985 Act⁽¹⁾ to vary or quash a debtor contribution order; or
- (b) a trustee is considering on or after that date under that section whether to vary or quash a debtor contribution order.

(4) These Regulations have effect where—

- (a) an application is made on or after 29th October 2018 under section 32(4) of the 1985 Act⁽²⁾ for variation of an income payment order,
- (b) an application is made on or after that date under section 32(4G)(b) of the 1985 Act⁽³⁾ for variation of an income payment agreement, or
- (c) a trustee is considering entering into a written agreement to vary an income payment agreement under section 32(4G)(a) of the 1985 Act on a change in the debtor's circumstances.

(5) For the avoidance of doubt paragraphs (2) to (4) do not prevent a trustee, AiB or a sheriff having regard to other factors, including the amount initially determined by the order or provided for in an income payment agreement (or any extant variation of either).

(1) Section 32F was inserted by section 4 of the 2014 Act and subsequently repealed by schedule 9 of the 2016 Act, subject to saving provision in section 234(3) of that Act, under which it continues to apply in relation to sequestrations petitioned or applied for or trust deeds executed before 30th November 2016.

(2) Section 32(4), relevantly amended by paragraph 1 of Part 1 of schedule 6 of the 2007 Act, was repealed by paragraph 1 of schedule 4 of the 2014 Act, subject to transitional provisions and savings specified in articles 4(1), (2) and 12 of [S.S.I. 2014/261](#) which provide that the 1985 Act as in force immediately before 1st April 2015 continues to apply and have effect in relation to sequestrations petitioned or applied for and trust deeds executed before 1st April 2015.

(3) Section 32(4G) was inserted by section 18(4) of the 2007 Act and subsequently repealed on the same basis as section 32(4) (described above).

(6) The adoption of the Standard Financial Statement as the common financial tool is not itself a change in the debtor's circumstances for the purposes of section 95 of the 2016 Act or sections 32(4) or 32F of the 1985 Act.

(7) Schedule 5 (which modifies saved regulations for sequestration and trust deeds before 30th November 2016) has effect subject to paragraphs (1) to (6).