

2009 No. 97

INSOLVENCY

BANKRUPTCY

The Bankruptcy Fees (Scotland) Amendment Regulations 2009

<i>Made</i> - - - -	<i>9th March 2009</i>
<i>Laid before the Scottish Parliament</i>	<i>10th March 2009</i>
<i>Coming into force</i> - -	<i>1st April 2009</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 69A, 72 and 73(1) of the Bankruptcy (Scotland) Act 1985(a) and all other powers enabling them to do so.

Citation and commencement

1.—(1) These Regulations may be cited as the Bankruptcy Fees (Scotland) Amendment Regulations 2009.

(2) Subject to subsection (3), these Regulations come into force on 1st April 2009.

(3) Item 2 in Part II of the Schedule comes into force on 1st October 2009.

Amendment of the Bankruptcy Fees (Scotland) Regulations 1993

2. In the Bankruptcy Fees (Scotland) Regulations 1993(b)—

- (a) in regulation 3 omit “, or on his behalf,”;
- (b) in regulation 4(g) omit “and”;
- (c) in regulation 4(h) for “,” substitute “; and”;
- (d) after regulation 4(h) for “but shall not include” substitute new paragraph “(i)”; and

(a) 1985 c.66. Section 69A was inserted by section 8 of the Bankruptcy (Scotland) Act 1993 (c.6) and section 73(1) was amended by paragraph 29 of Schedule 1 to that Act, and contains a definition of “prescribed” that is relevant to the exercise of the statutory powers under which these Regulations are made. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) S.I. 1993/486, as amended by S.I. 1999/752, S.S.I. 2007/220, 2008/5 and 79.

- (e) for the Schedule to those Regulations (table of fees) substitute the Schedule set out in the Schedule to these Regulations.

St Andrew's House,
Edinburgh
9th March 2009

FERGUS EWING
Authorised to sign by the Scottish Ministers

SCHEDULE

Regulation 2(e)

The substituted Schedule to the Bankruptcy Fees (Scotland) Amendment Regulations 2009 is as follows.

“SCHEDULE

Regulations 3 and 6

TABLE OF FEES

PART I

Regulation 3

<i>Column 1 (Functions)</i>	<i>Column 2 (Rates)</i>	<i>Column 3 (Former Rates)</i>
<p>1. In respect of the exercise by the Accountant in Bankruptcy of that office’s functions as interim trustee in a sequestration where the Accountant in Bankruptcy is not appointed as trustee in that sequestration—</p> <p style="padding-left: 40px;">(a) in respect of each of the first five hours of work;</p> <p style="padding-left: 40px;">(b) in respect of each subsequent hour of work.</p>	<p style="padding-left: 40px;">£39 per hour</p> <p style="padding-left: 40px;">£69 per hour</p>	<p style="padding-left: 40px;">£37 per hour</p> <p style="padding-left: 40px;">£66 per hour</p>
<p>2. In respect of the exercise by the Accountant in Bankruptcy of that office’s functions as interim trustee or trustee in a sequestration, other than in respect of the realisation of assets in the sequestrated estate—</p> <p style="padding-left: 40px;">(a) in respect of each of the first 21 hours of work;</p> <p style="padding-left: 40px;">(b) in respect of each subsequent hour of work.</p>	<p style="padding-left: 40px;">£39 per hour</p> <p style="padding-left: 40px;">£69 per hour</p>	<p style="padding-left: 40px;">£37 per hour</p> <p style="padding-left: 40px;">£66 per hour</p>
<p>3. In respect of the exercise by the Accountant in Bankruptcy of that office’s functions as trustee in a sequestration in relation to the realisation of assets in the sequestrated estate—</p> <p style="padding-left: 40px;">(a) in respect of the total price paid in a transaction by the purchaser of heritable property, including any interest paid thereon, but after the deduction of any sums paid to secured creditors in respect of their securities over that property—</p> <p style="padding-left: 80px;">(i) on the first £10,000 or fraction thereof;</p> <p style="padding-left: 80px;">(ii) on the next £10,000 or fraction thereof;</p> <p style="padding-left: 80px;">(iii) on all further sums;</p>	<p style="padding-left: 40px;">5% of that amount</p> <p style="padding-left: 40px;">1% of that amount</p> <p style="padding-left: 40px;">0.5% of that amount</p>	<p style="padding-left: 40px;"><i>(No change)</i></p> <p style="padding-left: 40px;"><i>(No change)</i></p> <p style="padding-left: 40px;"><i>(No change)</i></p>

Column 1 (Functions)	Column 2 (Rates)	Column 3 (Former Rates)
(b) in respect of the proceeds of the sale of moveable property, after the deduction of the expenses of sale and any sums paid to secured creditors in respect of their securities over that property.	5% of that amount	<i>(No change)</i>
4. In respect of the exercise by the Accountant in Bankruptcy of that office's functions as trustee in relation to the payment of dividends to creditors.	£78 plus £39 in respect of each creditor who is paid a dividend.	£74 plus £37 in respect of each creditor who is paid a dividend.

PART II

Regulation 6

Column 1 (Functions)	Column 2 (Fee Payable)	Column 3 (Fee Formerly Payable)
1. For registering award of sequestration.	£20.00	£19.00
2. For administration of a creditor's petition.	£100.00	None
3. For supervising proceedings in sequestration—		
(a) where commissioners have been elected;	£139.00	£132.00
(b) where no commissioners have been elected;	£210.00	£200.00
(c) where the Accountant in Bankruptcy is the trustee.	£139.00	£132.00
4. For supervising payment of dividend to creditors where no commissioners have been elected.	£69.00	£66.00
5. For any special report to the court.	£69.00	£66.00

Column 1 (Functions)	Column 2 (Fee Payable)	Column 3 (Fee Formerly Payable)
6. For considering and issuing a determination in an appeal against a determination of commissioners as to the outlays and remuneration payable to a trustee.	5% of the sum remaining on deduction from the sum of outlays and remuneration determined by the Accountant in Bankruptcy of any outlays incurred by way of statutory fees, trading expenses or expenses of realisation.	<i>(No change)</i>
7. For issuing a determination fixing the outlays and remuneration payable to– (a) an interim trustee; or (b) a trustee.	17.5% of the sum remaining on deduction from the sum of outlays and remuneration determined of any outlays incurred by way of statutory fees, trading expenses or expenses of realisation.	<i>(No change)</i>
8. For examination of the sederunt book and related work, in connection with the discharge of a trustee.	£36.00	£34.00
9. For granting a certificate of discharge to an interim trustee.	£36.00	£34.00
10. For granting a certificate of discharge to a debtor.	£11.00	£10.00
11. For providing a certified copy of an entry in the register of insolvencies.	£24.00	£23.00
12. For the certifying of any other document (excluding copying charges).	£17.00	£16.00
13. For providing a copy of any document– (a) by photocopying– (i) 10 pages or less; (ii) each page after first 10;	 £11.00 £0.32	 £10.00 £0.30

Column 1 (Functions)	Column 2 (Fee Payable)	Column 3 (Fee Formerly Payable)
(b) in an electronic medium or by printout from records held on computer – per document.	£0.13	£0.12
14. For searches in the register of insolvencies–		
(a) where the search is carried out by staff of the Accountant in Bankruptcy – for each search in respect of a debtor;	£17.00	£16.00
(b) where searches are carried out by remote direct access by computer – for each day from 0000 hours to 2359 hours;	£17.00	£16.00
(c) where searches are carried out by remote direct access by computer – for each year or part thereof;	£4,200.00	£4,000.00
(d) where searches are carried out by remote direct access by computer by non profit making bodies established in the UK including the Scottish Executive, UK Government Departments, Police and Credit Unions, on proof to the satisfaction of the Accountant in Bankruptcy of non profit making status;	£nil	<i>(No change)</i>
(e) where searches are carried out by remote direct access by computer by persons acting as agents of the Accountant in Bankruptcy.	£nil	<i>(No change)</i>
15. For attendance at any meeting of creditors – fee per hour or part thereof, including travelling time.	£69.00	£66.00
16. For calling any meeting of creditors.	£36.00	£34.00
17. For attendance at any examination of the debtor – fee per hour or part thereof, including travelling time.	£69.00	£66.00
18. In respect of protected trust deeds–		
(a) for registering a protected trust deed;	£36.00	£34.00
(b) for supervision of the trustee of a protected trust deed.	£200.00	<i>(No change)</i>

Column 1 (Functions)	Column 2 (Fee Payable)	Column 3 (Fee Formerly Payable)
19. For auditing the accounts of a trustee under a protected trust deed and fixing the trustee's remuneration.	5% of the sum remaining on deduction from the sum of outlays and remuneration determined of any outlays incurred by way of statutory fees, trading expenses or expenses of realisation.	<i>(No change)</i>
20. For lodging any unclaimed dividend in an appropriate bank or institution set aside for payment to a creditor or creditors, in respect of each creditor on consignment.	£13.00	£12.00
21. For uplifting any sum lodged in an appropriate bank or institution, in respect of each creditor on consignment.	£13.00	£12.00
22. For determination of a debtor application.	£100.00	<i>(No change)</i>
23. For an application for a bankruptcy restrictions order.	£250.00	<i>(No change)</i>
24. For accepting and issuing a bankruptcy restrictions undertaking.	£150.00	<i>(No change)</i>
25. For registering a court order appointing a replacement trustee.	£19.00	<i>(No change)</i>
26. For petitioning for the replacement of a trustee acting in more than one sequestration.	£200.00	<i>(No change)</i>

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Bankruptcy Fees (Scotland) Regulations 1993 (“the principal Regulations”) to prescribe amended fees payable to the Accountant in Bankruptcy in respect of the exercise of the Accountant in Bankruptcy’s functions under the Bankruptcy (Scotland) Act 1985. The fee formerly payable under the principal Regulations is shown in column 3 of the table of fees set out in the Schedule substituted by these Regulations, except that where there is no change this is expressly stated.

These Regulations also amend the principal Regulations to prescribe an additional fee payable to the Accountant in Bankruptcy in respect of the exercise of the Accountant in Bankruptcy’s functions in connection with the administration of creditor’s petitions under the Bankruptcy (Scotland) Act 1985. This fee appears at item 2 in Part II of the Schedule substituted by these Regulations.

These Regulations amend regulation 3 of the principal Regulations to disapply the fees payable in Part I of the table of fees in the Schedule to those Regulations by an interim trustee or trustee in sequestration acting on behalf of the Accountant in Bankruptcy, and amend regulation 4 to enable the actual fees paid to such persons to be recovered as outlays.

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