
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make miscellaneous amendments to the Bankruptcy (Scotland) Regulations 2014 (“the Bankruptcy Regulations”), the Bankruptcy (Applications and Decisions) (Scotland) Regulations 2014 (“the Applications and Decisions Regulations”) and the Bankruptcy Fees (Scotland) Regulations 2014 (“the Fees Regulations”). These form part of the measures to implement the Bankruptcy and Debt Advice (Scotland) Act 2014 ([asp 11](#)) and come into force on 1st April 2015.

Regulation 24 (sequestration before 1st April 2015) of the Bankruptcy Regulations provides that those Regulations do not apply to sequestrations where a creditor petition for sequestration is presented to court or a debtor application for sequestration is received by the Accountant in Bankruptcy (“AIB”) before 1st April 2015, subject to exceptions. Regulation 2(3) of these Regulations adjusts these provisions to make the drafting of regulation 24(1)(a)(ii) consistent with regulation 24(1)(a)(i) to avoid any doubt that a different effect was intended. It also adds regulation 15 and Form 26 (notice by trustee of proceedings to obtain authority in relation to debtor’s family home) and regulation 22 (moratorium on diligence: notice of intention to apply) of the Bankruptcy Regulations to the exceptions to regulation 24.

Regulation 2(4) inserts a new regulation 25 into the Bankruptcy Regulations to provide that those Regulations do not, except for regulation 22 (moratorium on diligence: notice of intention to apply), have effect as regards any trust deed granted before 1st April 2015.

Regulation 2(5) makes minor corrections and amendments to Forms in Schedule 1 to the Bankruptcy Regulations. In particular it adapts Form 29 (moratorium – notice of intention to apply) to apply more clearly to executors and entities.

Regulation 2(6) adds an entry to section E (winding up and receivership of business associations) of Schedule 2 (register of insolvencies) to the Bankruptcy Regulations, this entry having been omitted in error.

Regulation 3(2) inserts a new regulation 2A of the Applications and Decisions Regulations to allow AIB to relieve parties of failure to comply with those Regulations (but not provisions of the Bankruptcy (Scotland) Act 1985 (“the 1985 Act”) as amended).

Regulation 3(6) amends regulation 19 of the Applications and Decisions Regulations which allows extension or waiver of statutory time limits following reference by AIB to the sheriff. That provision is amended to apply also to any reference by AIB to the Court of Session for directions in replacing a trustee in sequestrations across different sheriffdoms under section 28B(5) and (6)(a) of the 1985 Act as amended.

Regulation 3(7) inserts a new regulation 21A of the Applications and Decisions Regulations to allow AIB to appoint independent persons, including those with relevant expertise, to assist AIB in relation to review applications.

Regulation 3(8)(a) and Schedule 2 replace Form 4 of the Applications and Decisions Regulations to clarify when it applies and add the name of the replacement trustee.

Regulation 4 amends savings arrangements for the Fees Regulations. The drafting of regulation 13(1)(b) is made consistent with regulation 13(1)(a) to avoid any doubt that a different effect was intended. A change is also made so the revocation of fees for certificates of debtor discharge, certified copies of entries in the register of insolvencies, and certifying other documents and copies of documents, applies to sequestrations and trust deeds begun before 1st April 2015 (see regulations 13 and 14 of the Fees Regulations).

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

The Regulations also make other minor corrections and amendments.