

SCOTTISH STATUTORY INSTRUMENTS

2016 No. 397

The Bankruptcy (Scotland) Regulations 2016

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
- (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 ^{M1}.

Marginal Citations

M1 This regulation re-enacts, with modifications, regulation 10 of the 2014 Regulations.

Conversion of foreign currency claims

[^{F1}**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 for that currency determined by the trustee with reference to the exchange rates prevailing at the close of business on the date of sequestration.]

Textual Amendments

F1 Reg. 22 substituted (1.5.2017) by [The Bankruptcy and Protected Trust Deeds \(Miscellaneous Amendments\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/136\)](#), regs. 1, **2(2)**

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 ^{M2}.

Marginal Citations

M2 This regulation re-enacts regulation 12 of the 2014 Regulations.

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 ^{M3}.

Marginal Citations

M3 This regulation re-enacts regulation 13 of the 2014 Regulations.

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 ^{M4}; 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);
 - (vii) welfare benefits.

Marginal Citations

M4 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/>.

Interest on claims in sequestration

26.—^[F2](1) 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 ^[F3]an annual rate of 2 percentage points above the Bank of England base rate that applies on the date of sequestration].

^[F4](2) In paragraph (1), “Bank of England base rate” means—

- (a) except where sub-paragraph (b) applies, the percentage rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short-term liquidity in the money markets, or
- (b) where an order under section 19 of the Bank of England Act 1998 (reserve powers) is in force, any equivalent percentage rate determined by the Treasury under that section.]

Textual Amendments

- F2** Reg. 26 renumbered as reg. 26(1) (6.4.2024) by [The Bankruptcy \(Scotland\) Amendment Regulations 2024 \(S.S.I. 2024/48\)](#), regs. 1, **2(2)**
- F3** Words in reg. 26(1) substituted (6.4.2024) by [The Bankruptcy \(Scotland\) Amendment Regulations 2024 \(S.S.I. 2024/48\)](#), regs. 1, **2(3)**
- F4** Reg. 26(2) inserted (6.4.2024) by [The Bankruptcy \(Scotland\) Amendment Regulations 2024 \(S.S.I. 2024/48\)](#), regs. 1, **2(4)**

Certificate of deferral of debtor's discharge

27. A certificate deferring indefinitely the discharge of the debtor under section 141(4)(b) or (6) (b) of the Act (where the debtor cannot be traced) must be in Form 30 ^{M5}.

Marginal Citations

- M5** This regulation re-enacts regulation 19 of the 2014 Regulations.

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 acting 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 ^{M6}.

Marginal Citations

- M6** This regulation re-enacts regulation 20 of the 2014 Regulations.

Changes to legislation:

There are currently no known outstanding effects for the The Bankruptcy (Scotland) Regulations 2016, PART 4.