

Status: Point in time view as at 30/06/2014. This version of this provision has been superseded.

Changes to legislation: Bankruptcy (Scotland) Act 1985 (repealed), Paragraph 2 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE A1 U.K.]

DEBTOR TO WHOM SECTION 5(2ZA) APPLIES: APPLICATION OF ACT

Textual Amendments

- F1** Sch. A1 inserted (30.6.2014 for specified purposes, 1.4.2015 in so far as not already in force) by [Bankruptcy and Debt Advice \(Scotland\) Act 2014 \(asp 11\)](#), s. 57(2), [sch. 1](#); [S.S.I. 2014/172](#), art. 2, [sch.](#); [S.S.I. 2014/261](#), art. 3 (with arts. 4-7, 12) (as amended by [S.S.I. 2015/54](#), art. 2)

Accountant in Bankruptcy's duty to consider whether paragraph 1 should cease to apply

- 2 (1) This paragraph applies where paragraph 1 applies in relation to a debtor.
- (2) If the Accountant in Bankruptcy considers that the circumstances mentioned in any of sub-paragraphs (3) to (6) apply in relation to the debtor, the Accountant in Bankruptcy must consider whether paragraph 1 should cease to apply in relation to the debtor.
- (3) The circumstances are—
- the Accountant in Bankruptcy becomes aware that the debtor application submitted under section 5 contains an error, and
 - the nature of the error is such that the debtor was not at that time a debtor to whom section 5(2ZA) applies.
- (4) The circumstances are—
- the Accountant in Bankruptcy becomes aware that the debtor application submitted under section 5 deliberately misrepresents or fails to state a fact that was the case at the time of the application, and
 - the nature of the misrepresentation or the omission of the fact is such that the debtor was not at that time a debtor to whom section 5(2ZA) applies.
- (5) The circumstances are that, at any time after the date on which the debtor application is made—
- the total value of the debtor's assets (leaving out of account any liabilities and any assets that would not vest in a trustee under section 33(1)) exceeds £5000 (or such other amount as may be prescribed), or
 - the Accountant in Bankruptcy assesses the debtor under the common financial tool as being able to make a contribution.
- (6) The circumstances are that, at any time after the date of sequestration—
- the Accountant in Bankruptcy is not satisfied that the debtor has co-operated with the trustee, and

Status: Point in time view as at 30/06/2014. This version of this provision has been superseded.

Changes to legislation: *Bankruptcy (Scotland) Act 1985 (repealed), Paragraph 2 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) the Accountant in Bankruptcy considers that it would be of financial benefit to the estate of the debtor and in the interests of the creditors if paragraph 1 were to cease to have effect.
- (7) The Scottish Ministers may by regulations modify this paragraph—
- (a) by modifying the circumstances in which paragraph 1 ceases to have effect,
 - (b) in consequence of any modification made under paragraph (a).]

Status:

Point in time view as at 30/06/2014. This version of this provision has been superseded.

Changes to legislation:

Bankruptcy (Scotland) Act 1985 (repealed), Paragraph 2 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.