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STATUTORY INSTRUMENTS

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**1993 No. 439**

**The Bankruptcy (Scotland) Amendment Regulations 1993**

**Citation and commencement**

1. These Regulations may be cited as the Bankruptcy (Scotland) Amendment Regulations 1993 and shall come into force on 1st April 1993.

**Interpretation**

2. In these Regulations—

“the Act” means the Bankruptcy (Scotland) Act 1985; and

“the principal Regulations” means the Bankruptcy (Scotland) Regulations 1985((1)).

**Application of these Regulations**

3.—(1) Subject to paragraph (2) of this regulation, these Regulations and the amendments to, and revocations of, the principal Regulations made by them, shall not apply in relation to—

- (a) any sequestration in respect of which the petition is presented before 1st April 1993;
- (b) any sequestration in respect of which the petition is presented on or after 1st April 1993 and before 1st October 1993 by a trustee acting under a trust deed granted before 1st April 1993; or
- (c) any trust deed granted before 1st April 1993,

and the principal Regulations, as in force immediately before 1st April 1993, shall continue to apply in relation to any such sequestration or trust deed.

(2) Paragraph (1) of this regulation shall not apply in relation to the amendments made to the principal Regulations by regulations 4 and 6(2) of these Regulations, but regulation 4 and the amendment made by it to the principal Regulations shall not apply in relation to any sequestration in respect of which the date of sequestration is before 1st April 1993.

(3) In this regulation, “trust deed” means a voluntary trust deed granted by or on behalf of the debtor whereby his estate is conveyed to the trustee for the benefit of his creditors generally.

**Amendments to the principal Regulations**

4. In regulation 8 of the principal Regulations (interest on claims in sequestration) for the words “15 per centum per annum” there shall be substituted the words “8 per centum per annum”.

5. There shall be inserted after regulation 14 of the principal Regulations, the following regulations:—

### **“Calling of statutory meeting of creditors**

15. In subsections (1) and (3) of section 21 of the Act((2)) (period within which interim trustee must call statutory meeting of creditors) for the words “28 days” there shall be substituted the words “60 days”.

### **Notice of sequestration in Edinburgh Gazette by interim trustee**

16. The information prescribed for the purposes of section 15(6) of the Act((3)) (obligation of interim trustee to publish notice of award of sequestration in Edinburgh Gazette), shall be:

- (a) the name, designation and address of the debtor, including, if he trades under a different name, his trading name and address;
- (b) the court which granted the award of sequestration including, in the case of a sheriff court, the name of that court;
- (c) the date of sequestration; and
- (d) the name, designation and office address of the interim trustee who has been appointed to act on the sequestrated estate of the debtor.

### **Notice of grant of certificate for the summary administration of the debtor’s estate in Edinburgh Gazette by permanent trustee**

17. The information prescribed for the purposes of paragraph 4(2) of Schedule 2A to the Act((4)) (additional information to be contained in notice of grant of certificate for the summary administration of the debtor’s estate to be published in Edinburgh Gazette by permanent trustee, under paragraph 4(1) of that Schedule), shall be:—

- (a) the name, designation and address of the debtor, including, if he trades under a different name, his trading name and address;
- (b) the court which awarded sequestration and, if different, the court which granted the certificate for the summary administration of the sequestration of the debtor’s estate including, in the case of a sheriff court, the name of that court;
- (c) the date of sequestration;
- (d) the name, designation and office address of the permanent trustee who has been appointed or confirmed to act on the sequestrated estate of the debtor.

### **Information to be sent by trustee acting under trust deed to creditors known to him**

18. The information prescribed for the purposes of paragraph 5(1)(c)(iii) of Schedule 5 to the Act((5)) (information to be sent by the trustee acting under a trust deed to every creditor known to him) shall be:—

- (a) a statement of the debtor’s affairs, prepared by the trustee, containing—
  - (i) a list of the debtor’s assets and liabilities; and
  - (ii) a list of his income and expenditure,as at the date when the trust deed was granted; and

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(2) Section 21 was amended by paragraph 10 of Schedule 1 to the Bankruptcy (Scotland) Act 1993.

(3) Section 15(6) was substituted by paragraph 4 of Schedule 1 to the Bankruptcy (Scotland) Act 1993.

(4) Schedule 2A was inserted by section 6(2) of the Bankruptcy (Scotland) Act 1993.

(5) Paragraph 5(1)(c)(iii) of Schedule 5 was substituted by paragraph 32(2) of Schedule 1 to the Bankruptcy (Scotland) Act 1993.

- (b) a statement as to the extent to which those assets and income have been or are due to be conveyed to the trustee for the benefit of his creditors.”.

6.—(1) The Schedule to the principal Regulations (which sets out the forms prescribed for the purposes of the provisions of the Act referred to therein) shall be amended as follows.

(2) In Form 8:—

(a) in the first column of the notes at the beginning of the form—

(i) after the words “section 55 of the Act”~~(6)~~ there shall be inserted “(as amended)”; and

(ii) in the quotation of subsection (1) of section 55 of the Act, for the words “subsection (2)” there shall be substituted the words “subsections (2) and (3)”; and

(b) in the second column of the notes, at the end of the quotation of subsection (2) of section 55 of the Act, there shall be inserted:—

“(3) the discharge of the debtor under the said section 54 shall not affect any right of a secured creditor—

(a) for a debt in respect of which the debtor has been discharged to enforce his security for payment of the debt and any interest due and payable on the debt until the debt is paid in full; or

(b) for an obligation in respect of which the debtor has been discharged to enforce his security in respect of the obligation.

By virtue of section 39(6) of the Drug Trafficking Offences Act 1986 (c. 32), section 45(5)(c) of the Criminal Justice (Scotland) Act 1987 (c. 41) and section 170(1) of and paragraph 109 of Schedule 15 to the Criminal Justice Act 1988 (c. 33), section 55(2) of the Act has effect as if the reference to a fine included a reference to a confiscation order.”.

(3) For Forms 4 and 10 there shall be substituted respectively Forms 4 and 10 in the Schedule to these Regulations.

### Revocations

7. In the Schedule to the principal Regulations, the following provisions shall be revoked:—

- (a) in Form 2, in note (d), the words “amounting in aggregate, to not less than £750.”;
- (b) Form 3; and
- (c) Form 6.

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