
STATUTORY INSTRUMENTS

1993 No. 486 (S.51)

INSOLVENCY

BANKRUPTCY, SCOTLAND

The Bankruptcy Fees (Scotland) Regulations 1993

<i>Made</i>	- - - -	<i>3rd March 1993</i>
<i>Laid before Parliament</i>		<i>11th March 1993</i>
<i>Coming into force</i>	- -	<i>1st April 1993</i>

The Secretary of State, in exercise of the powers conferred on him by sections 69A, 72 and 73(1) of the Bankruptcy (Scotland) Act 1985(1) and of all other powers enabling him in that behalf hereby makes the following Regulations:

Citation and commencement

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

Interpretation

2. In these Regulations—

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

“trust deed”, where granted before 1st April 1993, means a voluntary trust deed granted by or on behalf of a debtor, whereby his estate is conveyed to the trustee for the benefit of his creditors generally and, where granted on or after that date, has the meaning assigned by section 5(4A) of the 1985 Act(2).

Fees and outlays as interim or permanent trustee

3. The fees payable to the Accountant in Bankruptcy in respect of the exercise by him, or on his behalf, of his functions as interim or permanent trustee in a sequestration, which are specified in column 1 of Part I of the Table of Fees in the Schedule to these Regulations shall be the fees calculated in accordance with the rates specified in relation to those functions in column 2 of that table.

(1) 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.
(2) Section 5(4A) was inserted by section 3(4) of the Bankruptcy (Scotland) Act 1993.

4. The outlays payable to the Accountant in Bankruptcy in respect of the exercise by him, or on his behalf, of his functions as interim or permanent trustee in a sequestration shall be those outlays actually, necessarily and reasonably incurred by him, or on his behalf, in respect of the exercise of any of those functions and shall include, but shall not be limited to, outlays so incurred in respect of:—

- (a) the publication of notices in the Edinburgh Gazette;
- (b) the making of searches in any public register;
- (c) the valuation of property;
- (d) legal services and related expenses;
- (e) estate agency services;
- (f) the services of auctioneers and valuers;
- (g) services related to taxation matters; and
- (h) travel and subsistence expenses,

but shall not include the payment by him under section 1B(4) of the 1985 Act⁽³⁾ of a fee to a person appointed by him under section 1B(2) of that Act to perform any of his functions as interim or permanent trustee.

5. Any fees and outlays payable to the Accountant in Bankruptcy in respect of the exercise by him, or on his behalf, of his functions as interim or permanent trustee in a sequestration shall be due for payment from the sequestrated estate where—

- (a) he has made a determination of his fees and outlays, calculated in accordance with these Regulations, under and in accordance with, as appropriate, one of the following provisions in the 1985 Act namely:—

section 26A(3)(b)(4) (determination of fees and outlays where Accountant in Bankruptcy was interim trustee and some other person becomes permanent trustee);

section 53(1), as adapted by paragraph 9(2) of Schedule 2⁽⁵⁾ (determination of fees and outlays at end of each accounting period where Accountant in Bankruptcy is permanent trustee);

section 58A(2)(c)(6) (determination of fees and outlays on discharge of Accountant in Bankruptcy as permanent trustee);

paragraph 9(1A) of Schedule 4⁽⁷⁾ (determination of fees and outlays on discharge of Accountant in Bankruptcy as permanent trustee where offer of composition is approved); and

- (b) the period within which an appeal against such a determination may be taken to the sheriff under, as appropriate, one of the following provisions in the 1985 Act namely:—

section 26A(5) and (6);

section 53(4), as adapted by paragraph 9(2) of Schedule 2;

section 58A(5) and (6); and

paragraph 9(3) of Schedule 4,

has expired or, if an appeal is so taken, that appeal has been determined.

(3) Section 1B was inserted by section 1 of the Bankruptcy (Scotland) Act 1993.

(4) Section 26A was inserted by paragraph 15(1) of Schedule 1 to the Bankruptcy (Scotland) Act 1993.

(5) Paragraph 9(2) was substituted by paragraph 30(10) of Schedule 1 to the Bankruptcy (Scotland) Act 1993.

(6) Section 58A was inserted by paragraph 26 of Schedule 1 to the Bankruptcy (Scotland) Act 1993.

(7) Paragraph 9 of Schedule 4 was amended by paragraph 31(3) of Schedule 1 to the Bankruptcy (Scotland) Act 1993.

Other fees

6. The fees payable to the Accountant in Bankruptcy in respect of the exercise of his functions, other than as interim or permanent trustee in a sequestration, which are specified in column 1 of Part II of the Table of Fees in the Schedule to these Regulations shall be the fees specified in relation to those functions in column 2 of that table.

7. A fee payable to the Accountant in Bankruptcy, in respect of a function specified in column 1 of Part II of the Table of Fees in the Schedule to these Regulations shall be payable even although it is payable by or on behalf of the Accountant in Bankruptcy in the exercise of his functions as interim or permanent trustee.

8. A fee payable to the Accountant in Bankruptcy, in respect of a function specified in column 1 of Part II of the Table of Fees in the Schedule to these Regulations, shall be due for payment—

- (a) in respect of the function in paragraph 10 (granting of certificate of discharge to a debtor) on the relevant application being made to him; and
- (b) in respect of any other such function, on performance by him of that function.

St. Andrew's House,
Edinburgh
3rd March 1993

Fraser of Carmyllie
Minister of State, Scottish Office

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SCHEDULE

Regulations 3 and 6

TABLE OF FEES

Regulation 3

PART I

<i>Column 1 (Functions)</i>	<i>Column 2 (Rates)</i>
<p>1. In respect of the exercise by or on behalf of the Accountant in Bankruptcy of his functions as interim trustee in a sequestration where he is not appointed as permanent trustee in that sequestration—</p> <p>(i) in respect of each of the first five hours of work;</p> <p>(ii) in respect of each subsequent hour of work.</p>	<p>£ 28 per hour</p> <p>£ 50 per hour</p>
<p>2. In respect of the exercise by or on behalf of the Accountant in Bankruptcy of his functions as interim and permanent trustee, or as permanent trustee, in a sequestration, other than in respect of the realisation of assets in the sequestrated estate—</p> <p>(i) in respect of each of the first 21 hours of work;</p> <p>(ii) in respect of each subsequent hour of work.</p>	<p>£ 28 per hour</p> <p>£ 50 per hour</p>
<p>3. In respect of the exercise by or on behalf of the Accountant in Bankruptcy of his functions as permanent trustee in a sequestration in relation to the realisation of assets in the sequestrated estate—</p> <p>(i) 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>(a) on the first £40,000 or fraction thereof;</p> <p>(b) on the next £40,000 or fraction thereof;</p> <p>(c) on all further sums</p>	<p>1.5% of that amount</p> <p>1% of that amount</p> <p>0.5% of that amount</p>

<i>Column 1 (Functions)</i>	<i>Column 2 (Rates)</i>
(ii) 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

Regulation 6

PART II

<i>Column 1 (Functions)</i>	<i>Column 2 (Fee Payable)</i>
1. For registering award of sequestration	£ 14.00
2. For registering copy act and warrant	£ 14.00
3. For supervising proceedings in sequestration:	
(a) (a) where commissioners have been elected;	£100.00
(b) (b) where no commissioners have been elected	£150.00
4. For supervising payment of dividend to creditors	£ 50.00
5. For any special report to the court	£ 50.00
6. For considering and issuing a determination in an appeal against a determination of commissioners as to the outlays and remuneration payable to a permanent trustee	5% of the sum of the outlays and remuneration payable to the permanent trustee, as determined by the Accountant in Bankruptcy, or £10, whichever is the greater
7. For auditing the accounts of and issuing a determination fixing the outlays and remuneration payable to:	17.5% of the sum determined, or £10, whichever is the greater
(a) an interim trustee;	
(b) a permanent trustee; or	
(c) a trustee acting under a trust deed	
8. For examination of the sederunt book and related work, in connection with the discharge of a permanent trustee	£ 26.00
9. For granting a certificate of discharge to an interim trustee	£ 20.00
10. For granting a certificate of discharge to a debtor	£ 8.00

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<i>Column 1 (Functions)</i>	<i>Column 2 (Fee Payable)</i>
11. For providing a certified copy of an entry in the register of insolvencies	£ 20.00
12. For the certifying of any other document (excluding copying charges)	£ 9.00
13. For recording, engrossing, extracting or copying—all documents (excluding accounts):	
(a) (a) By manuscript or typescript— per sheet or part thereof	£ 5.00
(b) (b) By copying by electrical or mechanical means	
— first copy: each of first 10 pages	£ 1.00
— each page after first 10	£ 0.25
— subsequent copies: each page	£ 0.25
14. For any search of records or archives	
(a) (a) for first half hour taken	£ 8.00
(b) (b) for more than one half hour up to a maximum of 2 hours	£ 18.00
(c) (c) for each half hour in excess of 2 hours	£ 5.00
(d) (d) plus correspondence fee where applicable	£ 5.00
15. For attendance at any meeting of creditors—fee per hour or part thereof, including travelling time	£ 28.00
16. For calling any meeting of creditors	£ 30.00
17. For attendance at any examination of the debtor—fee per hour or part thereof, including travelling time	£ 28.00
18. For supervising protected trust deeds (excluding auditing of accounts)	£ 26.00
19. For providing a set of accounts on request	£ 20.00
20. For lodging any sum in an appropriate bank or institution on consignment	£ 10.00
21. For uplifting any sum lodged in an appropriate bank or institution on consignment	£ 10.00

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the fees and outlays to be payable to the Accountant in Bankruptcy in respect of the exercise of his functions under the Bankruptcy (Scotland) Act 1985. They also prescribe when certain fees and outlays are due for payment.