

This SSI has been made in consequence of defects in S.S.I. 2016/397 and S.S.I. 2016/398 and is being issued free of charge to all known recipients of those instruments.

Draft Regulations laid before the Scottish Parliament under section 225(4)(a) of the Bankruptcy (Scotland) Act 2016 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2017 No.

INSOLVENCY

BANKRUPTCY

DEBT

The Bankruptcy and Protected Trust Deeds (Miscellaneous Amendments) (Scotland) Regulations 2017

Made - - - - - *2017*

Coming into force - - - - - *1st May 2017*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 48(1)(a), 51(14), 54(4), 126(5), 138(2), 140(2), 170(1)(b) and (e), 175(1), 183(1)(a) and (b), 194(1), 224(1) and 225(2) of the Bankruptcy (Scotland) Act 2016^(a) and all other powers enabling them to do so.

In accordance with section 225(4)(a) of that Act^(b), a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Bankruptcy and Protected Trust Deeds (Miscellaneous Amendments) (Scotland) Regulations 2017 and come into force on 1st May 2017.

Amendment of the Bankruptcy (Scotland) Regulations 2016

2.—(1) The Bankruptcy (Scotland) Regulations 2016^(c) are amended as follows.

(a) 2016 asp 21 (“the Act”). Section 228(1) of the Act contains a definition of “prescribed” relevant to the exercise of the statutory powers under which these Regulations are made.
(b) The powers to make these Regulations are exercised together by virtue of section 33(2) and (3) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10).
(c) S.S.I. 2016/397.

(2) For regulation 22 (conversion of foreign currency claims) substitute—

“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(a).”.

(3) In schedule 1 (forms)—

- (a) in Form 1 (debtor application), in the Statement of Undertakings, in undertaking 2, for “award” substitute “application”;
- (b) in Form 13 (Statement of Undertakings), after “that” in the third line of undertaking 11, insert “date”;
- (c) in Form 26 (debtor certificate of discharge (where the Accountant in Bankruptcy is the trustee))—
 - (i) for the title to the notes, for “Debtor certificate of discharge” substitute “Debtor certificate of discharge (where the Accountant in Bankruptcy is the trustee)”; and
 - (ii) in the notes at the third bullet point of (1), for “district court” substitute “justice of the peace court (or a district court)”; and
- (d) in Form 27 (Debtor Certificate of Discharge (debtor to whom section 2(2) applies)), for “1985 (as amended)” substitute “2016”.

Amendment of the Protected Trust Deed (Forms) (Scotland) Regulations 2016

3.—(1) The Protected Trust Deed (Forms) (Scotland) Regulations 2016(b) are amended as follows.

(2) In the schedule—

- (a) in the list of forms to be used in connection with protected trust deeds, in column 3 of the Table, in the entry for Form 3, for “and (i)” substitute “, section 171(1)(i)”;
- (b) in Form 1B (agreement in respect of heritable property), in the third bullet point, for “if” substitute “of”;
- (c) in Form 2 (statement of claim by creditors in trust deed), in the notes, for “to so” substitute “to do so”; and
- (d) in the heading to Form 3 (trust deed protection proposal and trustee’s application) for “Section 170(1)(e) and (i)” substitute “Sections 170(1)(e), 171(1)(i)”.

Name

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
Date

(a) Regulation 22 re-enacts, with modifications, regulation 11 of the Bankruptcy (Scotland) Regulations 2014 (S.S.I. 2014/225) and original regulation 22 of these Regulations to correct an error in that provision.
(b) S.S.I. 2016/398.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend minor errors in the Bankruptcy (Scotland) Regulations 2016 and the Protected Trust Deed (Forms) (Scotland) Regulations 2016.

A Business and Regulatory Impact Assessment has not been prepared for these Regulations.

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