SCOTTISH STATUTORY INSTRUMENTS

2025 No. 145

INSOLVENCY

BANKRUPTCY

DEBT

The Bankruptcy and Diligence (Scotland) Act 2024 (Consequential Amendments and Forms) Regulations 2025

Made - - - -	*13th May 2025*
Laid before the Scottish Parliament	*15th May 2025*
Coming into force - -	*25th June 2025*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 116(2), 147A(3), (5)(a) and (6)(b), and 224(1) of the Bankruptcy (Scotland) Act 2016(**a**), section 21(1) of the Bankruptcy and Diligence (Scotland) Act 2024(**b**) and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Bankruptcy and Diligence (Scotland) Act 2024 (Consequential Amendments and Forms) Regulations 2025 and come into force on 25 June 2025.

(2) In these Regulations, "the 2016 Act" means the Bankruptcy (Scotland) Act 2016.

Amendment of the Bankruptcy (Applications and Decisions) (Scotland) Regulations 2016

2.—(1) The Bankruptcy (Applications and Decisions) (Scotland) Regulations 2016(**c**) are amended as follows.

(2) In regulation 9 (recall of sequestration by Accountant in Bankruptcy)—

(a) for paragraph (4) substitute—

(**a**) 2016 asp 21 ("the 2016 Act"). Section 116(2) is modified by sections 147A(9)(f) and 147C(4)(b) of the 2016 Act inserted by section 12(2) of the Bankruptcy and Diligence (Scotland) Act 2024 ("the 2024 Act"). Section 147A(3), (5)(a) and (6)(b) is inserted by section 12(2) of the 2024 Act. Section 12(2) of the 2024 Act was commenced on 17 April 2025 by regulation 2(1) of the Bankruptcy and Diligence (Scotland) Act 2024 (Commencement No. 2, Transitional and Saving Provisions) Regulations 2025 (S.S.I. 2025/107) for the purpose of enabling the Scottish Ministers to prescribe forms under section 147A(3), (5)(a) and (6)(b). Section 12 of the 2024 Act in so far as not already in force is commenced on 25 June 2025. Section 228(1) of the 2016 Act contains definitions of "prescribed" relevant to the exercise of the statutory powers under which these Regulations are made.

(**b**) 2024 asp 9.

(**c**) S.S.I. 2016/295.

"(4) AiB must send a statement of the debtor's affairs with any notification under section 35(2)(b) of the Act(**a**) (recall where the only ground is that the debtor has paid or is able to pay the debtor's debts in full: AiB acting as trustee).",

(b) paragraph (5) is omitted.

Amendment of the Bankruptcy (Scotland) Regulations 2016

3.—(1) Schedule 1 (forms) of the Bankruptcy (Scotland) Regulations 2016(**b**) is amended as follows.

(2) In the table (list of forms to be used) in the heading of the fourth column (relevant provisions of the Regulations), for "the Regulations" substitute "these Regulations or any other Regulations as may be specified".

(3) At the end of the table (list of forms to be used), insert the rows set out in Part 1 of the schedule.

(4) In Form 23 (debtor's account of current state of affairs), for "section 87(1)" substitute "section 87(2)".

(5) After Form 34, insert—

(a) Form 35 set out in Part 2 of the schedule, which is the prescribed form for a trustee application to AiB for authority to resign office, for the purposes of section 147A(3) of the 2016 Act,

(b) Form 36 set out in Part 3 of the schedule, which is the prescribed form for a trustee's intention to resign notice, for the purposes of section 147A(5)(a) of the 2016 Act, and

(c) Form 37 set out in Part 4 of the schedule, which is the prescribed form of notice from AiB granting the trustee's application to resign office, for the purposes of section 147A(6)(b) of the 2016 Act.

IVAN McKEE
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
13th May 2025

(**a**) Section 35(2)(b) is inserted by section 4(7)(b) of the Bankruptcy and Diligence (Scotland) Act 2024 (asp 9).
(**b**) S.S.I. 2016/397.

SCHEDULE

Regulation 3(3) and (5)

FORMS

PART 1

"35	Trustee application for authority to resign office – debtor's failure to co-operate	Section 147A(3)	Regulation 3(5)(a) of the Bankruptcy and Diligence (Scotland) Act 2024 (Consequential Amendments and Forms) Regulations 2025(**a**)	Not applicable
36	Intention to resign notice	Section 147A(5)(a)	Regulation 3(5)(b) of the Bankruptcy and Diligence (Scotland) Act 2024 (Consequential Amendments and Forms) Regulations 2025	Not applicable
37	Notice granting the trustee authority to resign office – debtor's failure to co-operate	Section 147A(6)(b)	Regulation 3(5)(c) of the Bankruptcy and Diligence (Scotland) Act 2024 (Consequential Amendments and Forms) Regulations 2025	Not applicable"

(**a**) S.S.I. 2025/145.

PART 2

FORM 35

TRUSTEE APPLICATION FOR AUTHORITY TO RESIGN OFFICE – DEBTOR'S FAILURE TO CO-OPERATE

This is a trustee application to the Accountant in Bankruptcy for authority to resign office on account of the debtor's failure to co-operate under section 147A(2) and (3) of the Bankruptcy (Scotland) Act 2016.

Name and address of trustee:

Name and address of the debtor at the date of sequestration award:

Bankruptcy reference number:

Please describe the nature and the extent of the debtor's failure to co-operate with the trustee:

Please describe the actions taken by the trustee to secure the debtor's co-operation:

Please describe any other matters that you consider to be relevant:

Please provide details of every creditor known to the trustee:

Please provide the date when the debtor and every creditor known to the trustee were notified using an Intention to Resign Notice that this application was going to be made:

Trustee Name:

Signature:

Date:

PART 3

FORM 36

INTENTION TO RESIGN NOTICE

This is an intention to resign notice under section 147A(5)(a) of the Bankruptcy (Scotland) Act 2016 ("the Act").

This notice relates to the sequestration of _____ ("the debtor") awarded on _____.

It is my intention as the trustee in sequestration to submit an application to the Accountant in Bankruptcy in terms of section 147A(2) of the Act to resign as trustee ("the application"). The application is being made due to the continued non co-operation of the debtor.

In the application I will be requesting that the Accountant in Bankruptcy, 1 Pennyburn Road, Kilwinning, KA13 6SA is appointed as trustee.

The effect of the application being granted will be that the debtor remains undischarged from bankruptcy indefinitely unless they subsequently begin to co-operate fully in the sequestration with the Accountant in Bankruptcy.

Please note you have the right to make representations to the Accountant in Bankruptcy in relation to the application. I intend to submit an application to resign on the following date: _____. Any representations can be made within 14 days beginning with the day on which the application was made. Following expiry of this 14 day period the Accountant in Bankruptcy will make a decision on the application and you will be advised of the outcome. It is therefore recommended that any representations are made to the Accountant in Bankruptcy as soon as possible upon receiving this notice.

Trustee Name:

Trustee address:

Signature:

Date:

Accountant in Bankruptcy contact details
Email address:

PART 4

FORM 37

NOTICE GRANTING THE TRUSTEE AUTHORITY TO RESIGN OFFICE – DEBTOR'S FAILURE TO CO-OPERATE

Having taken into account any representations made by an interested person in accordance with section 147A(6)(a) of the Bankruptcy (Scotland) Act 2016, the Accountant in Bankruptcy is satisfied in accordance with section 147A(6)(b) of that Act:-

a) that the debtor has failed to co-operate with the trustee to such an extent that the trustee is prevented from carrying out the trustee's functions under that Act,
b) that the failure is likely to continue, and
c) that the trustee has taken all reasonable steps to secure the debtor's co-operation.

And hereby grants:

Trustee Name:

Trustee Address:

Authority to resign office as trustee in the sequestration of:

Debtor Name:

Debtor Address:

Issued by The Accountant in Bankruptcy on:

Date:

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations make amendments and prescribe forms in consequence of provision made by the Bankruptcy and Diligence (Scotland) Act 2024 ("the 2024 Act").

Regulation 2 amends the notification requirements on the Accountant in Bankruptcy ("AiB") in the Bankruptcy (Applications and Decisions) (Scotland) Regulations 2016 in connection with the process for recall where AiB is the trustee and acts on its own accord in proposing recall of an award of sequestration on the basis that it considers the debtor has paid, or is able to pay, the debtor's debts in full. These amendments are in consequence of section 4 of the 2024 Act which modifies the process for applying for recall of sequestration under the Bankruptcy (Scotland) Act 2016 ("the 2016 Act").

Regulation 3(5) specifies the forms to be used for the purposes of section 147A(3), (5)(a) and (6)(b) of the 2016 Act, as inserted by section 12(2) of the 2024 Act—

- form 35 to be used for a trustee application to AiB for authority to resign office on account of the debtor's failure to co-operate,
- form 36 for the 'intention to resign' notice which a trustee is required to use to notify the debtor and every creditor known to the trustee of their intention to make an application to AiB to resign office,
- form 37 which AiB is to issue to the trustee where AiB decides to grant the trustee's application for authority to resign office.

The forms are inserted into schedule 1 of the Bankruptcy (Scotland) Regulations 2016. Regulation 3(4) corrects an erroneous cross-reference in Form 23 in those Regulations.

A Business and Regulatory Impact Assessment and Child Rights and Wellbeing Impact Assessment have been prepared and are available online at www.legislation.gov.uk.

© Crown copyright 2025

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Saul Nassé, the King's Printer for Scotland.

£8.14

http://www.legislation.gov.uk/id/ssi/2025/145

ISBN 978-0-11-106298-2

