SCOTTISH STATUTORY INSTRUMENTS

2010 No. 367

BANKRUPTCY

DEBT

The Bankruptcy (Scotland) Amendment Regulations 2010

Made - - - -	*21st October 2010*
Laid before the Scottish Parliament	*22nd October 2010*
Coming into force - -	*15th November 2010*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 5(4C)(a) and (b), 15(6), 19(2), 40(3B) and 73(1) of the Bankruptcy (Scotland) Act 1985(**a**), section 11(1)(b) of the Debt Arrangement and Attachment (Scotland) Act 2002(**b**) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Bankruptcy (Scotland) Amendment Regulations 2010 and come into force on 15th November 2010.

Interpretation

2. In these Regulations "the 2008 Regulations" means the Bankruptcy (Scotland) Regulations 2008(**c**).

Amendment of the Bankruptcy (Scotland) Regulations 2008

3.—(1) The 2008 Regulations are amended as follows.

(2) For regulation 2 (interpretation) substitute—

"**Interpretation**

(1) In these Regulations—

"the 1985 Act" means the Bankruptcy (Scotland) Act 1985; and

(**a**) 1985 c.66: Section 5(4C) was inserted by the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) ("the 2007 Act"), section 14(3)(b). Section 15(6) was amended by the Bankruptcy (Scotland) Act 1993 (c.6), Schedule 1, paragraph 4 and by the 2007 Act, schedule 6, Part 1. Section 19(2) was amended by the 2007 Act, schedule 1, paragraph 17 and schedule 6, Part 1. Section 40(3B) was inserted by the Home Owner and Debtor Protection (Scotland) Act 2010 (asp 6), section 11(c). Section 73(1) contains definitions of "prescribed" and "statement of assets and liabilities". The functions of the Secretary of State were transferred to the Scottish Ministers, insofar as they are within devolved competence, by section 53 of the Scotland Act 1998 (c.46).

(**b**) 2002 asp 17.

(**c**) S.S.I. 2008/82 as amended by S.S.I. 2008/334.

"the 1985 Regulations" means the Bankruptcy (Scotland) Regulations 1985(**a**).

(2) Any reference in these Regulations to anything done in writing or produced in written form includes a reference to an electronic communication, as defined in the Electronic Communications Act 2000(**b**), which has been recorded and is consequently capable of being reproduced.".

(3) Omit regulations 11 (notice of sequestration in Edinburgh Gazette by trustee) and 15 (debtor application/low income, low assets).

(4) In regulation 14 (debtor applications)—

(a) in paragraph (1)(a) omit "without concurrence of a qualified creditor or creditors";

(b) omit paragraph (1)(b);

(c) in paragraph (1)(c) after "11" insert "accompanied by a statement of assets and liabilities in the form of Form 25.";

(d) omit from "; and shall be accompanied" to the end of paragraph (1);

(e) in paragraph (3)—

(i) insert after sub-paragraph (a)—

"(aa) further information is required to substantiate any fact;";

(ii) for "(a), (b) or (c)" substitute "(a), (aa), (b) or (c)";

(f) in paragraph (4) insert after sub-paragraph (a)—

"(aa) the Accountant in Bankruptcy is not satisfied that the debtor has provided sufficient information in response to any requirement imposed under paragraph (3);".

(5) Insert after regulation 19 (abandonment of heritable property by trustee)—

"**Notice by trustee of proceedings to obtain authority in relation to debtor's family home**

19A. A notice by a trustee, or by a trustee acting under a trust deed, for the purposes of section 40(3A) of the 1985 Act shall be in the form of Form 24.".

(6) In the Schedule—

(a) for Form 3 (statement of assets and liabilities – petition by creditor or trustee under a trust deed) substitute the form set out in Schedule 1 to these Regulations;

(b) for Form 9 (debtor application) substitute the form set out in Schedule 2 to these Regulations;

(c) omit Form 10 (debtor application with concurrence);

(d) omit Form 12 (statement of assets and liabilities for debtor application);

(e) for Form 15 (refusal of award of sequestration) substitute the form set out in Schedule 3 to these Regulations;

(f) omit Form 17 (statutory declaration of low income and low assets); and

(g) after Form 23 insert Forms 24 (notice of proceedings to obtain the authority of a sheriff to sell or dispose of any right or interest in a debtor's family home) and 25 (statement of assets and liabilities) as set out in Schedules 4 and 5 to these Regulations.

(**a**) S.I. 1985/1925 as amended by S.I. 1986/1914, 1993/439 and 2003/2109.

(**b**) 2000 c.7. Section 15 of the Electronic Communication Act 2000 contains a definition of "electronic communication".

Prescribed amount for the purposes of section 11(1)(b) of the Debt Arrangement and Attachment (Scotland) Act 2002.

4. For the purposes of section 11(1)(b) of the Debt Arrangement and Attachment (Scotland) Act 2002 (articles exempt from attachment) the prescribed value of a vehicle is £3,000.

Saving provisions

5. Notwithstanding the revocation of regulations 11 and 15(3) of the 2008 Regulations, those provisions shall continue to have effect in respect of sequestrations awarded prior to 15th November 2010.

6. Notwithstanding the revocation of regulation 14(1)(b) of the 2008 Regulations, that provision shall continue to have effect in respect of applications under section 5(2A) of the Bankruptcy (Scotland) Act 1985 received by the Accountant in Bankruptcy prior to 15th December 2010.

7. Notwithstanding the revocation of regulations 15(1) and 15(2) of the 2008 Regulations, those provisions shall continue to have effect in respect of any application such as referred to in regulation 15(1) made prior to 15th November 2010.

KENNY MACASKILL
A member of the Scottish Executive

St Andrew's House,
Edinburgh
21st October 2010

SCHEDULE 1

Regulation 3(6)(a)

"*Form 3*

STATEMENT OF ASSETS AND LIABILITIES
Petition by creditor or trustee under a trust deed

Bankruptcy (Scotland) Act 1985: Section 19(2)

WARNING TO THE DEBTOR

It is a criminal offence under section 19(3) of the Bankruptcy (Scotland) Act 1985 for you, unless you can show that you had a reasonable excuse, to:

(A) Fail to send this statement to your trustee with 7 days of being notified of his appointment.

(B) Fail to disclose any material fact in this statement.

(C) Make a material misstatement in this statement.

On summary conviction you may be liable to a fine of up to £5,000 or to imprisonment for a maximum period of three months or to both.

If you deliberately do not disclose all relevant information or if you deliberately make a false statement when completing this form, you may become subject to bankruptcy restrictions

CERTIFICATION

Insert Name	
Insert Address	
Town	
County	
Postcode	

I have stated in this statement details of all my assets, liabilities and income as at the *date of my bankruptcy on _____

**date of bankruptcy is the date on which the Sheriff granted the petition which cited you to appear at court to decide whether you should be made bankrupt.*

I certify that the information I have supplied in Form 3 is true, complete and accurate to the best of my knowledge and belief.

I have read and understood the warning above.

Signature:_____ Date:_____

1. Are you currently self-employed? Yes ☐ No ☐

If 'yes' enter details of trading address and income:

Name & address of trading premises	**How long have you been self – employed?**	**Nature of the business**	**Gross amount (before deductions) £**

You must enclose your **last 3 business bank statements** and any other relevant documentation with your form.

2. Do you currently hold a premises or personal licence under the Licensing (Scotland) Act 2005 or are you involved in the licensed trade?
Yes ☐ No ☐

3. Are you currently getting social security benefits or working tax or pension credits?
Yes ☐ No ☐

If 'yes' enter details of type of benefit or credit and amounts:

Type of benefit / working tax or pension credit?	**Approximately how long have you received this benefit or credit?**	**Pay period (frequency)**	**Amount £**

If you tick 'yes' you must enclose evidence of your receipt of benefits, for example **your award letter from the issuing benefits office** or **your last 3 bank statements showing receipt of your benefits.**

Q4. Tick 'yes' if you are receiving any other income.

If you answered 'yes', complete the table giving details of any other income you receive, such as maintenance payments, pension or annuity payments, grants, rents, money from trusts etc.

Enter the address from where this income comes, the frequency of the payments such as weekly, monthly, fortnightly etc, and the amount you receive.

You must enclose evidence of your income, for example your **grant award letter** or **maintenance award letter** or **your last 3 bank statements detailing payment of income.**

Q5. If you do **not** receive income based benefits and you do **not** work and earn money, tell us how you support yourself financially for example, if you receive money from a trust or if your partner or parents support you.

Q6. Tick 'yes' if you own a motor vehicle. 'Motor vehicle' includes: car; van; motorbike; moped and truck.

If you tick 'yes', state whether the motor vehicle is provided under the Motability Car Scheme or under a Hire Purchase agreement, lease, credit or other finance agreement. Information about the Motability scheme is available from **www.motability.co.uk**

Provide details of all motor vehicles you own, even if you are not the main driver of that vehicle. Include details of the Motability agreement, Hire Purchase, lease or finance agreement company, the make and model, actual mileage, registration number and estimated value.

You must enclose a copy of the Motability, Hire Purchase, finance or credit agreement with your form.

Q6a. Provide details of what you use the motor vehicle for, for example travelling to and from work.

Q6b. Tick 'yes' if you use any motor vehicle which you do not own, for example a parent's car, work van etc.

4. Are you currently receiving any other income? Yes ☐ No ☐

If 'yes' enter details of any other income you receive:

Type of other income	Name & address of income source	Frequency	Gross amount £

If you tick 'yes' you must enclose evidence of your income, for example your **grant award letter, maintenance award letter** or **your last 3 bank statements detailing payment of income.**

5. If you ticked 'no' to questions 1, 3 **and** 4, detail how you support yourself financially.

_____

_____

6. Do you own a motor vehicle? Yes ☐ No ☐

If 'yes', is the motor vehicle provided under the Motability Car Scheme or under Hire Purchase (HP) or other finance or credit agreement?

Yes ☐ No ☐

Provide details of every motor vehicle you own:

Make and model of vehicle	Actual Mileage	Registration number	Estimated value £	Motability, HP or Finance Company details

You **must** enclose a copy of any agreement with your form**.**

6a. If you own a motor vehicle, provide details of what you use the motor vehicle for.

_____

6b. Do you use any motor vehicle which you do not own? Yes ☐ No ☐

Q7a. Tick 'yes' if any of your possessions, such as electrical goods, mobile phones, jewellery, furniture etc., are subject to hire purchase or credit agreement.

You must enclose a copy of the hire purchase or credit agreement.

Q7b. Do you have any non-essential possessions, which are not subject to a hire purchase or credit agreement, such as satellite equipment, caravans, boats, video recording equipment, jewellery, antiques, paintings etc.?

If 'yes' enter only details of non-essential items.

The following are examples of essential items **ONLY** in so far as they are reasonably required by you or a member of your household:

Children's toys, medical aids or equipment;
Tools of trade or educational books or equipment not exceeding £1,000;
Clothing, beds, bedding, household linen, curtains and floor coverings;
Food, cooking equipment and kitchen utensils;
Refrigerators, washing machines and microwave ovens;
Chairs, settees, tables and other furniture;
Lights, fittings and heating appliances;
Articles used for cleaning, drying, mending, or pressing clothes;
Articles used for cleaning the house and safety in the house;
Tools used for maintenance or repair of the house and household articles;
Computers and accessory equipment;
Radios, telephones and televisions.

7a. Are any of your possessions, other than any motor vehicle detailed above, subject to a hire purchase or credit agreement?

Yes ☐ No ☐

If 'yes' enter details of these possessions and the agreements below:

Hire Purchase or Finance company details	Possession Description	Date purchased	Term of agreement	Estimated value £

You must enclose a copy of the hire purchase or credit agreement.

7b. Do you have any non-essential possessions, which are not subject to a hire purchase or credit agreement?

Yes ☐ No ☐

If 'yes' enter details of non-essential items below:

Possession Description	Date purchased	Estimated value £

Q8. Tick 'yes' if you have any bank or building society account(s), either in Scotland or any other country. This includes current accounts and savings accounts. The account can be in your own name or in joint names.

If you answered 'yes', complete the table giving details of all your bank and/or building society accounts which are in your name, including joint accounts and any accounts held in trust.

Enter the name of the bank and/or building society branch, the name of the account holder(s), your account number(s), sort code, and the balance of the account.

Continue on a separate sheet if necessary

Q9. Tick 'yes' if you have any post office, credit union or other type of accounts. The account can be in your own name or in joint names.

If you answered 'yes', complete the table giving details of all post office, credit union or other accounts which are in your name, including joint accounts and accounts held in trust.

Enter the name and address of the post office, credit union or other establishment where the account was opened, the name of the account holder(s), the account number(s), sort code, and the balance of the account.

Continue on a separate sheet if necessary.

Q10. If you have answered 'no' to questions 8 **and** 9, provide details of how you manage your finances, for example, how you receive your wages or benefits and pay your bills.

8. Do you have any bank or building society account(s), including business accounts?

Yes ☐ No ☐

If 'yes' enter details of all your bank and building society accounts in your sole name or in joint names.

Name and address of bank/building society	Name(s) of account holder(s)	Account number	Sort code	Balance £

Continue on a separate sheet if necessary

9. Do you have any post office, credit union or other type of account(s)?

Yes ☐ No ☐

If 'yes' enter details of all your post office, credit union or other accounts in your sole name or in joint names.

Name and address of post office/credit union etc	Name(s) of account holder(s)	Account number	Sort code	Balance £

Continue on a separate sheet if necessary

10. If you have answered 'no' to questions 8 **and** 9 above, provide details of how you manage your finances, for example, how you receive your wages and how you pay your bills?

_____

_____

Q11. Tick 'yes' if you have any life assurance policies, endowment policies or savings plans, for example an ISA.

If you answered 'yes', complete the table giving details of your life assurance policies, endowment policies and savings plans. Also provide details of the sum assured and an estimate of the surrender value.

Please note, life assurance policies, endowment policies and savings plans will vest with your trustee. You may be required to send any policies you hold to your trustee.

Q12. Tick 'yes' if you have any investments, such as stocks, shares, bonds, saving certificates or Premium Bonds.

If you answered 'yes', complete the table giving details of your investments. Also provide an estimate of their surrender value.

Please note, any investments will vest with your trustee. You may be required to send evidence of any investments to your trustee.

11. Do you have any life assurance policies or endowment policies or savings plans?

Yes ☐ No ☐

If 'yes' enter details of all your policies and savings plans:

Type of policy/plan	Name & address of company	Reference number	Sum Assured £	Estimated surrender value £

12. Do you have any investments, such as stocks, shares, bonds, saving certificates or Premium Bonds?

Yes ☐ No ☐

If 'yes' enter details of all your investments:

Type of investment	Name & address of company	Reference number	Estimated surrender value £

Q13a. Tick 'yes if you rent the property you live in.

If 'yes' complete the table with the details of the property you rent, including the name and address of the property owner or landlord, name on the tenancy agreement and date of tenancy agreement.

Enclose a copy of your rental or tenancy agreement or a letter from your landlord.

Q13b. Tick 'yes if you own the property you live in.

Q13c. If you neither rent nor own your property provide details of your living arrangements, such as living with parents.

Q13d. Tick 'yes if you own your property jointly with another person.
If 'yes' provide the names and, if different, address(es) of the joint owner(s).

Q13e. Provide details of any mortgage or secured loan against your current property.

This will include the name and address of the mortgage or secured lender, the mortgage or loan reference number, the date the loan was obtained the amount borrowed and an estimate of what is currently outstanding to the secured lender.

Q13f. Tick 'yes if your mortgage and/or secured loan is in joint names.

13a. Do you rent the property where you currently live? Yes ☐ No ☐

If 'yes' complete details:

Name & address of property owner or landlord	Name on rental/tenancy agreement	Date of rental/ tenancy agreement

Enclose a copy of your rental or tenancy agreement or letter from your landlord.

13b. Do you own the property where you currently live? Yes ☐ No ☐

13c. If you answered 'no' to questions 13a and 13b provide details of your living arrangements, such as living with parents.

_____

_____

13d. If you own your property, is the property in joint names Yes ☐ No ☐

If 'yes' provide the names, and if different, the address(es) of the joint owner(s).

_____

_____

13e. Provide details of any mortgage or secured loan against your property.

Name and address of Mortgage Company/Lender	Mortgage account no./Lender reference no.	Date loan was obtained	Amount borrowed £	Estimated amount still owed £

13f. Is the mortgage and/or secured loan in joint names? Yes ☐ No ☐

Q14a. Tick 'yes if you own any other properties. This includes any property within Scotland or elsewhere.

If 'yes' provide details and the address(es) of properties you own, either wholly or jointly. Also detail the property type which includes land, timeshares, or any other property, including business or agricultural property.

Provide the name and address of any joint owners

Q14b. Provide details of any mortgage or secured loan against your other properties.

Q14c. Tick 'yes if your mortgage and/or secured loan for your other properties is in joint names.

Provide the names and, if different, address(es) of the joint owner(s).

Continue on a separate sheet for all other properties you own, providing details of addresses and any mortgages or secured loans.

Q15. Tick 'yes' if you have previously owned any property or land in any country outside Scotland in the last 5 years.

Property includes all or any part of a house, land, timeshare or any other property, including business or agricultural property. This includes property which is solely or jointly owned with another person.

Provide details, stating address, type of property and dates property owned from and to.

14a. Do you own, either wholly or jointly any other properties, within Scotland or elsewhere?

Yes ☐ No ☐

If 'yes' provide details and the address(es) of properties.

_____

_____

_____

14b. Provide details of any mortgage or secured loan against your properties

Name and address of Mortgage Company/Lender	**Mortgage Account no./Lender Reference no.**	**Date loan was obtained**	**Amount borrowed £**	**Estimated amount still owed £**

14c. Is the mortgage and/or secured loan in joint names? Yes ☐ No ☐

If 'yes' provide the names, and if different, the address(es) of the joint owner(s).

_____

_____

_____

Continue on a separate sheet for all other properties you own, providing details of addresses and any mortgages or secured loans.

15. Have you previously owned any property or land in any country outside Scotland in the last 5 years?

Yes ☐ No ☐

If 'yes' state:

address _____

type of property or land _____

dates property or land owned _____

Q16. If you have moved house within the last 5 years, provide details of your previous addresses, including the dates you lived there. Start with the most recent first.

You should also include any other address which you have used when obtaining credit, even if you did not live there, such as a business address.

Tick the relevant box 'yes' or 'no' to confirm if you owned the property, whether solely or jointly with another person. If you tick 'yes', confirm if you still own this property. Also state whether the property has been repossessed.

Continue on a separate sheet if necessary.

16. List details of your previous addresses or any other address where you have obtained credit, within the last 5 years, starting with the most recent.

House name or number and street	
Town	
County	
Postcode	
Dates from and to:	

Did you own this property?	Yes ☐ No ☐
Do you still own this property?	Yes ☐ No ☐
If ' no' was the property repossessed?	Yes ☐ No ☐

House name or number and street	
Town	
County	
Postcode	
Dates from and to:	

Did you own this property?	Yes ☐ No ☐
Do you still own this property?	Yes ☐ No ☐
If ' no' was the property repossessed?	Yes ☐ No ☐

Continue on another sheet if necessary

Q17. Please provide details of **all** your unsecured debts, for example, loans, credit card, catalogue accounts, unpaid council tax, overdrafts, rent arrears, household bills and any debts due to individuals. **DO NOT** include any mortgage or secured debts in this table.

Please provide details of the type of debt, the name and address of the company or person you owe the money to, any account or reference number, the date the debt was obtained and the amount owed.

Please provide as much detail as possible with up-to-date amounts owed.

You must include all the unsecured debts that you owe. If your bankruptcy is awarded, your trustee will write to each of your creditors (people you owe money to). If the debt is not included in the list there is a risk that your creditor will continue to expect payment of the debt.

17. Provide details of **all** your unsecured debts

Type of debt	Name & address of creditor	Account/reference number	Approximate date credit obtained	Amount owed £
			TOTAL	£

Continue on a separate sheet if necessary"

SCHEDULE 2

Regulation 3(6)(b)

"*Form 9*

DEBTOR APPLICATION

Please complete this form clearly in **BLACK INK** using **CAPITAL LETTERS.**

WARNING

You may be committing a criminal offence if you deliberately do not disclose all relevant information or if you deliberately make a false statement when completing the forms in this pack.

Q1. Enter the title you are known by (Mr, Mrs, Miss, Ms or other title), your surname (last name) and your first name. If you have any middle names, enter these after your first name.

If you are, or have been, known by any other name(s), please provide details.

Q2. Enter your date of birth in the order – day, month and year. Use 2 digits for the day and the month: 4 digits for the year, for example, 10/07/1975.

Q3. Enter your current address in full. **Please note:** There are separate lines for the town and postcode. Provide details of the type of property (detached, semi-detached, flat, bungalow etc.).

Confirm how long you have lived in this property.

Enter your telephone number, including the area code. This is very important as we may need to contact you regarding your application form.

Enter your mobile phone number, if you have one, and indicate if you would prefer us to contact you using your mobile number.

Enter your e-mail address if you have one. This will help us to get in touch with you quickly if we need to.

AiB Official Use ☐☐☐☐☐☐

1.	Title (Mr/Mrs/Miss/Ms or other title)	
	Surname	
	First and middle names	
	Any other names you are, or have been, known as	
2.	Date of Birth (DD/MM/YYYY)	
3.	Home address (house name or number & street)	
	Town	
	County	
	Postcode	
	Type of property	
	How long have you lived at this address?	☐☐ years ☐☐ months
	Contact telephone number (including area code)	
	Mobile (if different from above)	
	E-mail address	

Q4a. Tick 'yes' if you owe £1,500 or more.

Your must owe a total of £1,500 or more (including interest) before you can make yourself bankrupt. This can be made up of a single debt or the total of several debts.

If you have answered 'no' **DO NOT CONTINUE** with this application. You can seek advice from a money adviser on other options that may be available to you.

Q4b. Tick 'yes' if you have been made bankrupt **in Scotland** within the last 5 years.

If you answered 'yes' **DO NOT CONTINUE** with this application as you can only make yourself bankrupt once during this period.

If you are not sure you (or a money adviser) can check the Register of Insolvencies (ROI) free of charge at **www.aib.gov.uk/ROI**.

Please note: The Accountant in Bankruptcy will charge an administration fee to search the ROI for you.

Q4c. Tick 'yes' if you are **currently** bankrupt (or the equivalent) in England, Wales, Northern Ireland or any other country outside Scotland.

Please state the country where you were made bankrupt and the date of award. **You must enclose the award of your bankruptcy with your application.**

Q4d. Tick 'yes' if you have **previously** been made bankrupt (or the equivalent) outside Scotland. Please confirm the country where you were made bankrupt and the date of award. You must also provide details of your name at the time of your bankruptcy if it is different from your current name.

Q5. Tick 'yes' if you have lived **outside** Scotland at any time during the last year. This includes any time spent in England, Wales or Northern Ireland, (including any time spent studying or working) but does not include any time spent on holiday.

If 'yes', please state which country and the dates you lived there.

4a. Do you have debts of £1,500 or more? Yes ☐ No ☐

If you answered 'no', **DO NOT CONTINUE** with this application. You cannot make yourself bankrupt unless you have debts of £1,500 or more.

4b. Have you been made bankrupt **in Scotland** during the last 5 years?

Yes ☐ No ☐

If you answered 'yes', **DO NOT CONTINUE** with this application. You cannot make yourself bankrupt again during this period.

4c. Are you **currently** bankrupt (or the equivalent) in any country outside Scotland?

Yes ☐ No ☐

If you answered 'yes', please confirm the name of the country and the date you were made bankrupt:

Country: _____

Date: _____

4d. Have you **previously** been made bankrupt (or the equivalent) in any country outside Scotland?

Yes ☐ No ☐

If you answered 'yes', state the name of the country and the date you were made bankrupt:

Country: _____

Date: _____

Name (if different from current): _____

5. Have you have lived outside Scotland at any time during the last year?

Yes ☐ No ☐

If 'yes', state the name of the country and provide dates:

Country: _____

Date(s): _____

Continue on another sheet if necessary

Q6. Tick 'yes' if you currently own, or are the director of, a business or company (including self employed tradesmen) whether that business or company is situated in Scotland or elsewhere. You should also tick 'yes' if you have previously owned or been a director of a business or company in the last 5 years.

If you tick 'yes', please provide details of the business or company, including name, address and your role or position. You should also confirm the business or company trading dates and, if applicable, that date the business or company stopped trading.

Q7. Tick 'yes' if you have been issued with a Certificate for Sequestration signed by an authorised person. This Certificate is provided by a money adviser or an insolvency practitioner who, after reviewing the financial information (statements, payslips etc.) you have provided, certifies that you are unable to pay your debts as they become due.

The Certificate **must not** be dated more than 30 days before the date of your signature on this application pack and **sent with your application.** If you do not include your Certificate, we may not be able to process your application. It may be rejected and the fee paid will **not** be refunded.

If you tick 'yes' and you have a Certificate for Sequestration, please go straight to question 10b.

If you tick 'no', proceed to question 8.

Q8. Tick 'yes' if you have ever taken part in a debt payment programme (DPP) under the Debt Arrangement Scheme (DAS). Only tick 'yes' if you have ever taken part in DAS, not a voluntary arrangement or a debt repayment plan administered by a private company.

Tell us if the DPP has been revoked. **If you tick 'yes' you must enclose the letter advising that your DPP has been revoked.**

Tick 'yes' if a creditor has taken further action regarding any of the debts in your DPP. **You must provide documentation that confirms a creditor has taken further formal action regarding one of these debts**.

If you are unsure, speak to a money adviser.

6. Are you or have you ever been the owner or director of a business?

Yes ☐ No ☐

If 'yes', complete the following information:

Name & address of business or company	Your role in the business or company	Dates trading from and to

7. Do you have a Certificate for Sequestration signed by an authorised person.?

Yes ☐ No ☐

If 'yes' is the Certificate dated no more than 30 days before the date you complete, sign and date this application?

Yes ☐ No ☐

If you tick 'yes', the Certificate for Sequestration must be enclosed with your application. If you do not include your Certificate with your application we may not be able to process your application. It may be rejected and the fee paid will **not** be refunded.

If you tick 'yes' and you have a Certificate for Sequestration, go straight to question 10b.

If you tick 'no', proceed to question 8.

8. Have you ever taken part in a debt payment programme (DPP) under the Debt Arrangement Scheme (DAS)?

Yes ☐ No ☐

If 'yes' has the DPP been revoked? Yes ☐ No ☐

Has any creditor taken further action against you regarding any of the debts in your DPP?

Yes ☐ No ☐

If you tick 'yes' to any of the last two questions, you **must provide supporting documentation** with your application.

Q9a. Tick 'yes' if you have ever signed a trust deed. A trust deed is a formal agreement between you and an insolvency practitioner who becomes the trustee in your trust deed.

If 'yes', please tell us if any of your creditors objected to your trust deed becoming protected.

You must enclose the letter from your trustee telling you this with your application.

Q9b. Tick 'yes' if you have been served with a Charge for Payment.

A Charge for Payment is not just another debt reminder. It is a legal document with the words 'Charge for Payment' at the top which proves that one of your creditors is taking legal action against you to recover what you owe them.

Tick 'yes' if the debt remains unpaid.

Tick 'yes' if the Charge for Payment is **dated at least 15 days before** the date of your signature on this application pack.

The Charge for Payment cannot be accepted if it is dated less than 15 days before you sign and date this application, even if you send us the application form after this date.

If you tick 'yes' **the Charge for Payment must be enclosed with your application.** If you no longer have the original Charge for Payment you can obtain a copy from the sheriff officer.

Q9c. Tick 'yes' if you have been served with a Statutory Demand.

A Statutory Demand is a legal document with the words 'Statutory Demand' at the top which proves that one of your creditors is taking legal action against you to recover what you owe them.

Tick 'yes' if the debt remains unpaid.

Tick 'yes' if the Statutory Demand is **dated at least 22 days before** the date of your signature on this application pack.

The Statutory Demand cannot be accepted if it is dated less than 22 days before the date of your signature on this application pack, even if you send us the application form after this date.

If you tick 'yes' **the Statutory Demand must be enclosed with your application**

9a. Have you ever signed a trust deed? Yes ☐ No ☐

If 'yes' did your trust deed fail to become protected? Yes ☐ No ☐

If you tick 'yes' **the letter from your trustee must be enclosed** with your application.

9b. Have you been served with a Charge for Payment? Yes ☐ No ☐

If 'yes', is the debt still unpaid? Yes ☐ No ☐

If 'yes' is the Charge for Payment dated **at least 15 days** prior to you completing, signing and dating this application? Yes ☐ No ☐

If you tick 'yes' to the above, t**he Charge for Payment must be enclosed** with your application.

9c. Have you been served with a Statutory Demand Yes ☐ No ☐

If 'yes', is the debt still unpaid? Yes ☐ No ☐

If 'yes' is the Statutory Demand dated **at least 22 days** prior to you completing, signing and dating this application? Yes ☐ No ☐

If you tick 'yes' to the above, **the Statutory Demand must be enclosed** with your application.

IMPORTANT

If you do not include the relevant documents with your application we may not be able to process your application. It may be rejected and the fee paid will not be refunded.

Q10a. Tick 'yes' if your weekly personal income (not including any benefits) is less than 40 times the hourly national minimum wage.

This amount is based on the national minimum wage rate which from 1 October 2010 is £5.93 per hour, giving a weekly rate of £237.20 before deductions, based on a 40 hour working week. (£5.93 X 40 hours = £237.20)

The national minimum wage is normally updated at the start of October each year. If you wish to find out what the current national minimum wage is, you can visit Her Majesty's Revenue & Customs website - **www.hmrc.gov.uk/nmw** or speak to a money adviser.

Q10b. Tick 'yes' if you are currently employed and receiving an income.

If you answered 'yes', complete the table giving details of the name and address(es) of your current employer(s) and how long you have worked there (years/months)

Provide details of your 'pay period' (the frequency of your wage payments) such as weekly, monthly, fortnightly etc. Also enter how much you earn before deductions during this pay period. 'Gross' means before any deductions such as tax and national insurance.

You must enclose your **last 3 wage slips, last 3 bank statements showing your wages** or **a letter from your employer detailing your gross wage and your pay period** with your application**.**

10a. Is your **weekly personal income** before deductions (not including any benefits) less than the national minimum wage?

Yes ☐ No ☐

PLEASE READ THE INFORMATION GIVEN REGARDING THE NATIONAL MINIMUM WAGE.

10b. Are you currently employed? Yes ☐ No ☐

If 'yes' enter details of your employer and earned income amounts.

Name & Address of Employer	**How long have you worked there?**	**Pay Period**	**Gross Amount £**

You must enclose y**our last 3 wage slips, last 3 bank statements showing your wages** or **a letter from your employer detailing your gross wage and pay period** with your application.

If you do not send the requested documents, your application may be rejected and the fee paid will not be refunded.

Q11. Tick 'yes' if you are currently self-employed.

If you answered 'yes', complete the table giving details of the address from which you trade and how long you have been self-employed. Provide details of the nature of your business (e.g. painter, builder etc) and your income before any deductions such as tax and national insurance.

You must enclose your **last 3 business bank statements** and any other relevant documentation with your application.

Q12. Tick 'yes' if you are a licensee (licence holder) under the licensing legislation, the Licensing (Scotland) Act 2005. This includes a Premises or Personal licence. Also tick 'yes' if you are involved in the licensed trade for example, if you own a pub but there is a tenant and the tenant has a licence.

Q13. Tick 'yes' if you are receiving social security benefits, working tax credits or pension credits?

If you answered 'yes', complete the table giving details of any social security benefits you receive, such as Income Support, Income-based Jobseekers' Allowance, Housing Benefit, Council Tax Benefit or Employment Support Allowance. Give details of any Working Tax Credits or Pension Credits.

Provide details of approximately how long the social security benefit, Working Tax Credit or Pension Credit has been paid to you, how frequently such as weekly, monthly, fortnightly etc, and the amount you receive in each pay period.

You must enclose evidence of your receipt of benefits, for example **your award letter from the issuing benefits office** or **your last 3 bank statements showing receipt of your benefits.**

11. Are you currently self-employed? Yes ☐ No ☐

If 'yes' enter details of trading address and income:

Name & address of trading premises	**How long have you been self – employed?**	**Nature of the business**	**Gross amount (before deductions) £**

You must enclose your **last 3 business bank statements** and any other relevant documentation with your application.

12. Do you currently hold a premises or personal licence under the Licensing (Scotland) Act 2005 or are you involved in the licensed trade?

Yes ☐ No ☐

13. Are you currently getting social security benefits or working tax or pension credits?

Yes ☐ No ☐

If 'yes' enter details of type of benefit or credit and amounts:

Type of benefit / working tax or pension credit?	**Approximately how long have you received this benefit or credit?**	**Pay period (frequency)**	**Amount £**

If you tick 'yes' you must enclose evidence of your receipt of benefits, for example **your award letter from the issuing benefits office** or **your last 3 bank statements showing receipt of your benefits.** If you do not send in the requested documents, your application may be rejected and the fee paid will not be refunded.

Q14. Tick 'yes' if you are receiving any other income.

If you answered 'yes', complete the table giving details of any other income you receive, such as maintenance payments, pension or annuity payments, grants, rents, money from trusts etc.

Enter the address from where this income comes, the frequency of the payments such as weekly, monthly, fortnightly etc, and the amount you receive.

You must enclose evidence of your income, for example your **grant award letter** or **maintenance award letter** or **your last 3 bank statements detailing payment of income.**

Q15. If you do **not** receive income based benefits and you do **not** work and earn money, tell us how you support yourself financially for example, if you receive money from a trust or if your partner or parents support you.

IMPORTANT

If you do not include the relevant documents with your application we may not be able to process your application and it may be rejected and the fee paid will not be refunded

Q16. Tick 'yes' if you own a motor vehicle. 'Motor vehicle' includes: car; van; motorbike; moped and truck.

If you tick 'yes', state whether the motor vehicle is provided under the Motability Car Scheme or under a Hire Purchase agreement, lease, credit or other finance agreement. Information about the Motability scheme is available from **www.motability.co.uk**

Provide details of all motor vehicles you own, even if you are not the main driver of that vehicle. Include details of the Motability agreement, Hire Purchase, lease or finance agreement company, the make and model, actual mileage, registration number and estimated value.

You must enclose a copy of the Motability, Hire Purchase, finance or credit agreement with your application.

Q16a. Provide details of what you use the motor vehicle for, for example travelling to and from work.

Q16b. Tick 'yes' if you use any motor vehicle which you do not own, for example a parent's car, work van etc.

14. Are you currently receiving any other income? Yes ☐ No ☐

If 'yes' enter details of any other income you receive:

Type of other income	Name & address of income source	Frequency	Gross amount £

If you tick 'yes' you must enclose evidence of your income, for example your **grant award letter, maintenance award letter** or **your last 3 bank statements detailing payment of income.**

15. If you ticked 'no' to questions 11, 13 **and** 14, detail how you support yourself financially.

_____

_____

16. Do you own a motor vehicle? Yes ☐ No ☐

If 'yes', is the motor vehicle provided under the Motability Car Scheme or under Hire Purchase (HP) or other finance or credit agreement?

Yes ☐ No ☐

Provide details of every motor vehicle you own:

Make and model of vehicle	Actual Mileage	Registration number	Estimated value £	Motability, HP or Finance Company details

You **must** enclose a copy of any agreement with your application.

16a. If you own a motor vehicle, provide details of what you use the motor vehicle for.

_____

16b. Do you use any motor vehicle which you do not own? Yes ☐ No ☐

Q17a. Tick 'yes' if any of your possessions, such as electrical goods, mobile phones, jewellery, furniture etc., are subject to hire purchase or credit agreement.

You must enclose a copy of the hire purchase or credit agreement.

Q17b. Do you have any non-essential possessions, which are not subject to a hire purchase or credit agreement, such as satellite equipment, caravans, boats, video recording equipment, jewellery, antiques, paintings etc.?

If 'yes' enter only details of non-essential items.

The following are examples of essential items **ONLY** in so far as they are reasonably required by you or a member of your household:

Children's toys, medical aids or equipment;
Tools of trade or educational books or equipment not exceeding £1,000;
Clothing, beds, bedding, household linen, curtains and floor coverings;
Food, cooking equipment and kitchen utensils;
Refrigerators, washing machines and microwave ovens;
Chairs, settees, tables and other furniture;
Lights, fittings and heating appliances;
Articles used for cleaning, drying, mending, or pressing clothes;
Articles used for cleaning the house and safety in the house;
Tools used for maintenance or repair of the house and household articles;
Computers and accessory equipment;
Radios, telephones and televisions.

Q17c. Tick 'yes' if the total value of your non-essential possessions is more than £10,000. Do not include any essential items (see list above of essential items).

Q17d. Tick 'yes' if you own any individual non-essential possession, excluding land, property, motor vehicle or essential items, with an individual value of more than £1,000, for example, jewellery and money. A list of essential items is detailed above.

Note that all cash and money held in bank accounts or elsewhere (in Scotland or any other country) should be added together.

17a. Are any of your possessions, other than any motor vehicle detailed above, subject to a hire purchase or credit agreement?

Yes ☐ No ☐

If 'yes' enter details of these possessions and the agreements below:

Hire Purchase or Finance company details	Possession Description	Date purchased	Term of agreement	Estimated value £

You must enclose a copy of the hire purchase or credit agreement.

17b. Do you have any non-essential possessions, which are not subject to a hire purchase or credit agreement?

Yes ☐ No ☐

If 'yes' enter details of non-essential items below:

Possession Description	Date purchased	Estimated value £

17c. Is the total value of all your non-essential possessions more than £10,000?

Yes ☐ No ☐

17d. Do you have any individual non-essential possession, including money, with a value of more than £1,000?

Yes ☐ No ☐

Note that all cash and money held in bank accounts or elsewhere should be added together.

Q18. Tick 'yes' if you have any bank or building society account(s), either in Scotland or any other country. This includes current accounts and savings accounts. The account can be in your own name or in joint names.

If you answered 'yes', complete the table giving details of all your bank and/or building society accounts which are in your name, including joint accounts and any accounts held in trust.

Enter the name of the bank and/or building society branch, the name of the account holder(s), your account number(s), sort code, and the balance of the account.

Continue on a separate sheet if necessary

Q19. Tick 'yes' if you have any post office, credit union or other type of accounts. The account can be in your own name or in joint names.

If you answered 'yes', complete the table giving details of all post office, credit union or other accounts which are in your name, including joint accounts and accounts held in trust.

Enter the name and address of the post office, credit union or other establishment where the account was opened, the name of the account holder(s), the account number(s), sort code, and the balance of the account.

Continue on a separate sheet if necessary.

Q20. If you have answered 'no' to questions 18 **and** 19, provide details of how you manage your finances, for example, how you receive your wages or benefits and pay your bills.

18. Do you have any bank or building society account(s), including business accounts?

Yes ☐ No ☐

If 'yes' enter details of all your bank and building society accounts in your sole name or in joint names.

Name and address of bank/building society	Name(s) of account holder(s)	Account number	Sort code	Balance £

Continue on a separate sheet if necessary

19. Do you have any post office, credit union or other type of account(s)?

Yes ☐ No ☐

If 'yes' enter details of all your post office, credit union or other accounts in your sole name or in joint names.

Name and address of post office/credit union etc	Name(s) of account holder(s)	Account number	Sort code	Balance £

Continue on a separate sheet if necessary

20. If you have answered 'no' to questions 18 **and** 19 above, provide details of how you manage your finances, for example, how you receive your wages and how you pay your bills?

_____

_____

Q21. Tick 'yes' if you have any life assurance policies, endowment policies or savings plans, for example an ISA.

If you answered 'yes', complete the table giving details of your life assurance policies, endowment policies and savings plans. Also provide details of the sum assured and an estimate of the surrender value.

Please note, life assurance policies, endowment policies and savings plans will vest with your trustee. You may be required to send any policies you hold to your trustee.

Q22. Tick 'yes' if you have any investments, such as stocks, shares, bonds, saving certificates or Premium Bonds.

If you answered 'yes', complete the table giving details of your investments. Also provide an estimate of their surrender value.

Please note, any investments will vest with your trustee. You may be required to send evidence of any investments to your trustee.

21. Do you have any life assurance policies or endowment policies or savings plans?

Yes ☐ No ☐

If 'yes' enter details of all your policies and savings plans:

Type of policy/plan	Name & address of company	Reference number	Sum Assured £	Estimated surrender value £

22. Do you have any investments, such as stocks, shares, bonds, saving certificates or Premium Bonds?

Yes ☐ No ☐

If 'yes' enter details of all your investments:

Type of investment	Name & address of company	Reference number	Estimated surrender value £

Q23a. Tick 'yes if you rent the property you live in.

If 'yes' complete the table with the details of the property you rent, including the name and address of the property owner or landlord, name on the tenancy agreement and date of tenancy agreement.

Enclose a copy of your rental or tenancy agreement or a letter from your landlord.

Q23b. Tick 'yes if you own the property you live in.

Q23c. If you neither rent nor own your property provide details of your living arrangements, such as living with parents.

Q23d. Tick 'yes if you own your property jointly with another person.
If 'yes' provide the names and, if different, address(es) of the joint owner(s).

Q23e. Provide details of any mortgage or secured loan against your current property.

This will include the name and address of the mortgage or secured lender, the mortgage or loan reference number, the date the loan was obtained the amount borrowed and an estimate of what is currently outstanding to the secured lender.

Q23f. Tick 'yes if your mortgage and/or secured loan is in joint names.

23a. Do you rent the property where you currently live? Yes ☐ No ☐

If 'yes' complete details:

Name & address of property owner or landlord	Name on rental/tenancy agreement	Date of rental/ tenancy agreement

Enclose a copy of your rental or tenancy agreement or letter from your landlord.

23b. Do you own the property where you currently live? Yes ☐ No ☐

23c. If you answered 'no' to questions 23a and 23b provide details of your living arrangements, such as living with parents.

_____

_____

23d. If you own your property, is the property in joint names Yes ☐ No ☐

If 'yes' provide the names, and if different, the address(es) of the joint owner(s).

_____

_____

23e. Provide details of any mortgage or secured loan against your property.

Name and address of Mortgage Company/Lender	Mortgage account no./Lender reference no.	Date loan was obtained	Amount borrowed £	Estimated amount still owed £

23f. Is the mortgage and/or secured loan in joint names? Yes ☐ No ☐

Q24a. Tick 'yes if you own any other properties. This includes any property within Scotland or elsewhere.

If 'yes' provide details and the address(es) of properties you own, either wholly or jointly. Also detail the property type which includes land, timeshares, or any other property, including business or agricultural property.

Provide the name and address of any joint owners

Q24b. Provide details of any mortgage or secured loan against your other properties.

Q24c. Tick 'yes if your mortgage and/or secured loan for your other properties is in joint names.

Provide the names and, if different, address(es) of the joint owner(s).

Continue on a separate sheet for all other properties you own, providing details of addresses and any mortgages or secured loans.

Q25. Tick 'yes' if you have previously owned any property or land in any country outside Scotland in the last 5 years.

Property includes all or any part of a house, land, timeshare or any other property, including business or agricultural property. This includes property which is solely or jointly owned with another person.

Provide details, stating address, type of property and dates property owned from and to.

24a. Do you own, either wholly or jointly any other properties, within Scotland or elsewhere?

Yes ☐ No ☐

If 'yes' provide details and the address(es) of properties.

_____

_____

_____

24b. Provide details of any mortgage or secured loan against your properties

Name and address of Mortgage Company/Lender	**Mortgage Account no./Lender Reference no.**	**Date loan was obtained**	**Amount borrowed £**	**Estimated amount still owed £**

24c. Is the mortgage and/or secured loan in joint names? Yes ☐ No ☐

If 'yes' provide the names, and if different, the address(es) of the joint owner(s).

_____

_____

_____

Continue on a separate sheet for all other properties you own, providing details of addresses and any mortgages or secured loans.

25. Have you previously owned any property or land in any country outside Scotland in the last 5 years?

Yes ☐ No ☐

If 'yes' state:

address _____

type of property or land _____

dates property or land owned _____

Q26. If you have moved house within the last 5 years, provide details of your previous addresses, including the dates you lived there. Start with the most recent first.

You should also include any other address which you have used when obtaining credit, even if you did not live there, such as a business address.

Tick the relevant box 'yes' or 'no' to confirm if you owned the property, whether solely or jointly with another person. If you tick 'yes', confirm if you still own this property. Also state whether the property has been repossessed.

Continue on a separate sheet if necessary.

26. List details of your previous addresses or any other address where you have obtained credit, within the last 5 years, starting with the most recent.

House name or number and street	
Town	
County	
Postcode	
Dates from and to:	
Did you own this property?	Yes ☐ No ☐
Do you still own this property?	Yes ☐ No ☐
If ' no' was the property repossessed?	Yes ☐ No ☐

House name or number and street	
Town	
County	
Postcode	
Dates from and to:	
Did you own this property?	Yes ☐ No ☐
Do you still own this property?	Yes ☐ No ☐
If ' no' was the property repossessed?	Yes ☐ No ☐

Continue on another sheet if necessary

Q27. Please provide details of **all** your unsecured debts, for example, loans, credit card, catalogue accounts, unpaid council tax, overdrafts, rent arrears, household bills and any debts due to individuals. **DO NOT** include any mortgage or secured debts in this table.

Please provide details of the type of debt, the name and address of the company or person you owe the money to, any account or reference number, the date the debt was obtained and the amount owed.

Please provide as much detail as possible with up-to-date amounts owed.

You must include all the unsecured debts that you owe. If your bankruptcy is awarded, your trustee will write to each of your creditors (people you owe money to). If the debt is not included in the list there is a risk that your creditor will continue to expect payment of the debt.

27. Provide details of **all** your unsecured debts

Type of debt	Name & address of creditor	Account/reference number	Approximate date credit obtained	Amount owed £
			TOTAL	£

Continue on a separate sheet if necessary

Q28. Your Trustee in Bankruptcy

- Your trustee is the person who will administer your bankruptcy.
- Your trustee will be the Accountant in Bankruptcy or you may choose to nominate an insolvency practitioner.
- The duties of the trustee will be the same no matter who it is.
- The fees charged by an insolvency practitioner for administering your bankruptcy may be greater than those charged by the Accountant in Bankruptcy.
- If you want an insolvency practitioner to be your trustee, they must complete and sign Form 13.

Tick 'yes' if you wish to nominate an insolvency practitioner to be your trustee.

Q29 Payment process

Confirm how you are paying the application fee by ticking the relevant box.

The fee for your application is **£100**. There are no exemptions or waivers for this fee.

If you make the payment over the phone or in person at the Accountant in Bankruptcy office, you will be provided with a receipt number which you should write on the application form. If you make the payment at the bank, provide details of payment dates and enclose your receipt(s) with your application form.

28. Do you wish to nominate an insolvency practitioner to be your trustee?

Yes ☐ No ☐

If 'yes' print the insolvency practitioner's name and address in the box below.

Name:	
Address:	
Town:	
County:	
Postcode:	

(if you have chosen an insolvency practitioner, ensure that **Form 13** is **completed and signed** by the insolvency practitioner and returned with this application)

29. Payment Process

The fee for your application is **£100**. The fee can be paid by debit card over the phone, cheque, postal order, in person at our office or at your local bank.

Please indicate how you paid, providing details of receipt numbers and dates, if appropriate.

Payment by post, e.g. Cheque or postal order ☐

Payment by debit card over the phone ☐ Receipt number_____

Payment in person ☐ Receipt number_____

Payment at the bank ☐ Receipt date(s)_____

By signing this form you are agreeing to be made bankrupt, if you meet the bankruptcy criteria as defined in the Bankruptcy (Scotland) Act 1985 (as amended). You are also confirming that the information you have provided on the form is the truth.

The consequences of bankruptcy are severe.

Being made bankrupt will adversely affect your credit rating. It may affect your employment prospects and your future ability to obtain credit. Some companies, including utility companies and banks, may have concerns about the way they provide their services to you, for example, some banks may freeze your funds or not allow you to keep an account.

We strongly advise that you seek money advice.

Please take time to review your answers in this form and check that you have answered all questions before signing and dating.

STATEMENT OF TRUTH

I _____(insert name) agree to be made bankrupt, if I meet the bankruptcy criteria as defined in the Bankruptcy (Scotland) Act 1985, as amended, and certify that the information I have supplied on this application form is true, complete and accurate to the best of my knowledge and belief.

I understand that by becoming bankrupt, I may be required to make regular contributions from my income if I am financially able to do so and that my assets may be sold to repay my debts.

I have read and understood the warning below.

Signature:_____ Date:_____

Warning

It is a criminal offence under sections 5(9) and 67(1) of the Bankruptcy (Scotland) Act 1985, as amended, for you to make a false statement in this form in relation to your assets or business or financial affairs, to not disclose any material fact in this statement or make a material misstatement unless you can show that you did not know that statement was false and had no reason to believe it was false.

On summary conviction, you may be liable to a fine of up to £5,000 or to imprisonment for a maximum period of three months or to both.

If you deliberately do not disclose all relevant information or if you deliberately make a false statement when completing this form, you may become subject to bankruptcy restrictions.

"

SCHEDULE 3

Regulation 3(6)(e)

"*Form 15*

Form of Refusal of Award of Sequestration

Bankruptcy (Scotland) Act 1985, section 12(1)

Certificate

I certify that _____ (Insert debtor's name, or name of other entity entitled to apply under section 6 of the Bankruptcy (Scotland) Act 1985)

_____

_____ (insert debtor's address)

_____ (Insert case reference number)

Has applied for an award of sequestration.

The application has not been completed in accordance with the Bankruptcy (Scotland) Act 1985 and Regulations. For the following reason the award of sequestration has been refused.

*The debtor has not met any of the following conditions in section 5(2B) of the Bankruptcy (Scotland) Act 1985

- *The debtor does not owe total debts of at least £1,500.
- *An award of sequestration was made against the debtor on _____ (insert date) within the period of 5 years preceding the date of application.
- *The debtor is not apparently insolvent as defined in section 7 of that Act
- *The debtor is not a low income, low asset debtor as defined in section 5A of that Act
- *The debtor has not provided a valid certificate for sequestration in accordance with section 5B of that Act.
- *The debtor's creditors have not prevented the protection of a trust deed granted by the debtor.

*The debtor has not paid the application fee prescribed in Regulations.

Signed _____ (insert name) _____ (insert status)

Date _____ (insert date)

Refusal of Award

I refuse this application for an award of sequestration

Signed _____ Accountant in Bankruptcy/Depute Accountant

Date_____ (insert date)

*delete as appropriate"

SCHEDULE 4

Regulation 3(6)(g)

"*Form 24*

Note to Trustee

This form of notice must be used to give notice to a local authority of an application made under section 40(1)(b) of the Bankruptcy (Scotland) Act 1985. This notice must be sent before commencing proceedings in accordance with section 40(3A) of the 1985 Act.

Notice by

Trustee in Sequestration, or

Trustee under a Trust Deed

Of Application to Court to Obtain the Authority of the Sheriff to Sell or Dispose of Rights and Interests in a Debtor's Family Home

To: _____

(Name of local authority in whose area the property referred to in the application or proceedings is situated)

Take note that an application to court has been made as detailed below to obtain the authority of the Sheriff to sell or dispose of rights and interests in a debtor's family home.

(Please give the following information)

Name and address of the trustee:

	Insert trustee's name
	Insert trustee's address
	Town
	County
	Postcode

	Case Reference Number

Name and address of the trustee's legal representatives:

	Insert trustee's legal representatives' name
	Insert trustee's legal representatives' address
	Town
	County
	Postcode

Contact telephone number of the trustee:

Name of debtor:

Name of occupier (if not the debtor):

Full postal address of property that is subject to proceedings:

Insert property address

Town

County

Postcode

Recording/registration date of the standard security (if applicable):

Date of application:

Court in which application made:

”

SCHEDULE 5

Regulation 3(6)(g)

"*Form 25*

STATEMENT OF ASSETS AND LIABILITIES
(Trusts, Partnerships etc.)

Bankruptcy (Scotland) Act 1985: Section 5(6A)

WARNING

You may be committing a criminal offence if you deliberately do not disclose all relevant information or if you deliberately make a false statement when completing the forms in this pack.

Insert Name of Entity	
Insert Address of Entity	
Town	
County	
Postcode	
Insert Contact Name	
Insert Contact Address	
Town	
County	
Postcode	

Q1. Tick 'yes' if the entity is receiving any income.

If you answered 'yes', complete the table giving details of any income the entity receives, grants, lottery money, money from trusts etc.

Enter the address from where this income comes, the frequency of the payments such as weekly, monthly, fortnightly etc, and the amount the entity receives.

Q2. Tick 'yes' if you are a licensee (licence holder) under the licensing legislation, the Licensing (Scotland) Act 2005. This includes a Premises or Personal licence. Also tick 'yes' if you are involved in the licensed trade for example, if you own a pub but there is a tenant and the tenant has a licence.

Q3. Tick 'yes' if the entity owns a motor vehicle. 'Motor vehicle' includes: car; van; motorbike; moped and truck.

If you tick 'yes', state whether the motor vehicle is provided under a Hire Purchase agreement, lease, credit or other finance agreement.

Provide details of all motor vehicles the entity owns.

You must enclose a copy of the Hire Purchase, finance or credit agreement with your form.

Q3a. Provide details of what the motor vehicle is used for.

1. Is the entity currently receiving any income? Yes ☐ No ☐

If 'yes' enter details of any income received:

Type of other income	Name & address of income source	Frequency	Gross amount £

2. Do you currently hold a premises or personal licence under the Licensing (Scotland) Act 2005 or are you involved in the licensed trade?

Yes ☐ No ☐

3. Does the entity own a motor vehicle? Yes ☐ No ☐

If 'yes', is the motor vehicle provided under Hire Purchase (HP) or other finance or credit agreement?

Yes ☐ No ☐

Provide details of every motor vehicle owned:

Make and model of vehicle	Actual Mileage	Registration number	Estimated value £	HP or Finance Company details

You **must** enclose a copy of any agreement with this form.

3a. If the entity owns a motor vehicle, provide details of what it is use for.

_____

Q4a. Tick 'yes' if any of the entity's possessions, such as electrical goods, mobile phones, fruit machines, furniture etc., are subject to hire purchase or credit agreement.

You must enclose a copy of the hire purchase or credit agreement.

Q4b. Does the entity have any possessions, which are not subject to a hire purchase or credit agreement, such as satellite equipment, caravans, boats, video recording equipment, tools, fixtures and fittings, electrical goods, paintings, sports equipment, etc.?

4a. Are any of the entity's possessions, other than any motor vehicle detailed above, subject to a hire purchase or credit agreement?

Yes ☐ No ☐

If 'yes' enter details of these possessions and the agreements below:

Hire Purchase or Finance company details	Possession Description	Date purchased	Term of agreement	Estimated value £

You must enclose a copy of the hire purchase or credit agreement.

4b. Does the entity have any possessions, which are not subject to a hire purchase or credit agreement?

Yes ☐ No ☐

If 'yes' enter details of items below:

Possession Description	Date purchased	Estimated value £

Q5. Tick 'yes' if the entity has any bank or building society account(s), either in Scotland or any other country. This includes current accounts and savings accounts.

If you answered 'yes', complete the table giving details of all the entity's bank and/or building society accounts, including any accounts held in trust.

Enter the name of the bank and/or building society branch, the name of the account(s), the account number(s), sort code, and the balance of the account.

Continue on a separate sheet if necessary

Q6. Tick 'yes' if the entity has any post office, credit union or other type of accounts.

If you answered 'yes', complete the table giving details of all post office, credit union or other accounts which are in the entity's name, including accounts held in trust.

Enter the name and address of the post office, credit union or other establishment where the account was opened, the name of the account(s), the account number(s), sort code, and the balance of the account.

Continue on a separate sheet if necessary.

5. Does the entity have any bank or building society account(s)?

Yes ☐ No ☐

If 'yes' enter details of all bank and building society accounts.

Name and address of bank/building society	Name(s) of account (s)	Account number	Sort code	Balance £

Continue on a separate sheet if necessary

6. Does the entity have any post office, credit union or other type of account(s)?

Yes ☐ No ☐

If 'yes' enter details of all post office, credit union or other accounts.

Name and address of post office/credit union etc	Name(s) of account(s)	Account number	Sort code	Balance £

Continue on a separate sheet if necessary

Q7. Tick 'yes' if the entity has any assurance policies, endowment policies or savings plans, for example an ISA.

If you answered 'yes', complete the table giving details of the assurance policies, endowment policies and savings plans. Also provide details of the sum assured and an estimate of the surrender value.

Q8. Tick 'yes' if the entity has any investments, such as stocks, shares, bonds, saving certificates or Premium Bonds.

If you answered 'yes', complete the table giving details of the investments. Also provide an estimate of their surrender value.

7. Does the entity have any assurance policies or endowment policies or savings plans?

Yes ☐ No ☐

If 'yes' enter details of all the policies and savings plans:

Type of policy/plan	Name & address of company	Reference number	Sum Assured £	Estimated surrender value £

8. Does the entity have any investments, such as stocks, shares, bonds, saving certificates or Premium Bonds?

Yes ☐ No ☐

If 'yes' enter details of all the investments:

Type of investment	Name & address of company	Reference number	Estimated surrender value £

Q9a. Tick 'yes if the entity rents the property it does business from.

If 'yes' complete the table with the details of the property the entity rents, including the name and address of the property owner or landlord, name on the tenancy agreement and date of tenancy agreement.

Q9b. Tick 'yes if the entity owns the property it does business from.

Q9c. Tick 'yes if the entity owns property jointly with another person/entity.
If 'yes' provide the names and, if different, address(es) of the joint owner(s).

Q9d. Provide details of any mortgage or secured loan.

This will include the name and address of the mortgage or secured lender, the mortgage or loan reference number, the date the loan was obtained the amount borrowed and an estimate of what is currently outstanding to the secured lender.

Q9e. Tick 'yes if the mortgage and/or secured loan is in joint names.

9a. Does the entity rent the property where it does business from?

Yes ☐ No ☐

If 'yes' complete details:

Name & address of property owner or landlord	Name on rental/tenancy agreement	Date of rental/ tenancy agreement

Enclose a copy of your rental or tenancy agreement or letter from your landlord.

9b. Does the entity own the property where it does business from?

Yes ☐ No ☐

9c. If the entity owns property, is the property in joint names?

Yes ☐ No ☐

If 'yes' provide the names, and if different, the address(es) of the joint owner(s).

_____

_____

9d Provide details of any mortgage or secured loan.

Name and address of Mortgage Company/Lender	Mortgage account no./Lender reference no.	Date loan was obtained	Amount borrowed £	Estimated amount still owed £

9e. Is the mortgage and/or secured loan in joint names? Yes ☐ No ☐

Q10a. Tick 'yes if the entity owns any other properties. This includes any property within Scotland or elsewhere.

If 'yes' provide details and the address(es) of properties the entity owns, either wholly or jointly. Also detail the property type which includes land, timeshares, or any other property, including business or agricultural property.

Provide the name and address of any joint owners

Q10b. Provide details of any mortgage or secured loan against the other properties.

Q10c. Tick 'yes if the mortgage and/or secured loan for the other properties is in joint names.

Provide the names and, if different, address(es) of the joint owner(s).

Continue on a separate sheet for all other properties the entity owns, providing details of addresses and any mortgages or secured loans.

Q11. Tick 'yes' if the entity has previously owned any property or land in any country outside Scotland in the last 5 years.

Property includes all or any part of a house, land, timeshare or any other property, including business or agricultural property. This includes property which is solely or jointly owned with another person or organisation.

Provide details, stating address, type of property and dates property owned from and to.

10a. Does the entity own, either wholly or jointly any other properties, within Scotland or elsewhere?

Yes ☐ No ☐

If 'yes' provide details and the address(es) of properties.

_____

_____

_____

10b. Provide details of any mortgage or secured loan against the properties

Name and address of Mortgage Company/Lender	**Mortgage Account no./Lender Reference no.**	**Date loan was obtained**	**Amount borrowed £**	**Estimated amount still owed £**

10c. Is the mortgage and/or secured loan in joint names? Yes ☐ No ☐

If 'yes' provide the names, and if different, the address(es) of the joint owner(s).

_____

_____

_____

Continue on a separate sheet for all other properties the entity owns, providing details of addresses and any mortgages or secured loans.

11. Has the entity previously owned any property or land in any country outside Scotland in the last 5 years?

Yes ☐ No ☐

If 'yes' state:

address _____

type of property or land _____

dates property or land owned _____

Q12. Provide details of **all** the entity's unsecured debts, for example, loans, credit card, catalogue accounts, unpaid council tax, overdrafts, rent arrears, utility bills and any debts due to individuals. **DO NOT** include any mortgage or secured debts in this table.

Please provide details of the type of debt, the name and address of the company or person the entity owes the money to, any account or reference number, the date the debt was obtained and the amount owed.

Please provide as much detail as possible with up-to-date amounts owed.

12. Provide details of **all** the entity's unsecured debts

Type of debt	Name & address of creditor	Account/reference number	Approximate date credit obtained	Amount owed £
			TOTAL	£

Continue on a separate sheet if necessary"

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the Bankruptcy (Scotland) Regulations 2008 ("the 2008 Regulations") that are consequential on amendments to the Bankruptcy (Scotland) Act 1985 ("the 1985 Act") made by Part 2 of the Home Owner and Debtor Protection (Scotland) Act 2010. The Regulations also amend the procedure to be followed, and the forms required, in debtor applications under the 1985 Act, and vary the value of vehicles that are exempt from attachment under the Debt Arrangement and Attachment (Scotland) Act 2002 (and hence not part of the assets covered by a sequestration or a protected trust deed).

Section 9 of the Home Owner and Debtor Protection (Scotland) Act 2010 amends the debtor application provisions in the 1985 Act by removing the concurrence of a qualifying creditor as one of the routes into sequestration, and introducing a new route of a certificate for sequestration signed by an authorised person. Consequent upon these changes, regulations 3(4)(a) to (d) make necessary amendments to regulation 14 of the 2008 Regulations and regulation 3(6) makes changes to the forms required in debtor applications and the form of statement of assets and liabilities required under section 19(2) of the 1985 Act.

Section 11 of the Home Owner and Debtor Protection (Scotland) Act 2010 amends section 40 of the 1985 Act by requiring a trustee to give notice to the Local Authority before applying to the court for certain orders in relation to the debtor's family home. Regulations 3(5) and (6)(g) amend the 2008 Regulations so as to prescribe the form to be used when giving such notice.

Section 12 of the Home Owner and Debtor Protection (Scotland) Act 2010 abolishes the requirement for certain notices to appear in the Edinburgh Gazette. Regulation 3(3) makes amendments to the 2008 Regulations consequent on the abolition of these requirements.

Regulations 3(4)(e) and (f) amend the procedure to be followed in relation to debtor applications so as to allow the Accountant in Bankruptcy to require a debtor to provide further information when required to substantiate any fact.

Regulation 4 prescribes £3,000 as the upper limit on the value of a vehicle that may be exempt from attachment for the purposes of section 11(1)(b) of the Debt Arrangement and Attachment (Scotland) Act 2002.

Regulations 5, 6 and 7 contain savings provisions in relation to the revoked provisions of the 2008 Regulations.

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