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

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2026 No.

INSOLVENCY

BANKRUPTCY

DEBT

The Bankruptcy and Attachment (Miscellaneous Amendment) (Scotland) Regulations 2026

Made - - - - 2026

Coming into force in accordance with regulation 1

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 2(2)(b)(ii), (c), (d), (g), (3)(b), (5), 89(1), 224, 227(a) and (b) and paragraph 2(5)(a) of schedule 1 of the Bankruptcy (Scotland) Act 2016(**a**), and sections 11(1)(a) and (b), (2)(a) and (b), 52(2), and paragraphs 3(b) and 5(a) of schedule 2 of the Debt Arrangement and Attachment (Scotland) Act 2002(**b**) and all other powers enabling them to do so.

In accordance with section 225(4)(a) of the Bankruptcy (Scotland) Act 2016, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament(**c**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Bankruptcy and Attachment (Miscellaneous Amendment) (Scotland) Regulations 2026.

(2) Subject to paragraph (3), these Regulations come into force on the day after the day on which they are made.

(3) Regulations 2, 4 to 6 and 8 to 10 come into force on 1 April 2027.

(4) In these Regulations—

"the 2002 Act" means the Debt Arrangement and Attachment (Scotland) Act 2002,

(**a**) 2016 asp 21. Section 2 was relevantly amended by S.S.I. 2021/148. Section 228(1) contains a definition of "prescribed" relevant to the exercise of the statutory powers under which these Regulations are made.

(**b**) 2002 asp 17. Section 11 was relevantly amended by the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), schedule 5, paragraph 30(3).

(**c**) The powers to make these Regulations are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10). These Regulations are subject to the affirmative procedure by virtue of section 33(3) of that Act.

"the 2016 Act" means the Bankruptcy (Scotland) Act 2016,

"the 2016 Regulations" means the Bankruptcy (Scotland) Regulations 2016(**a**),

"AiB" means the Accountant in Bankruptcy and is to be construed in accordance with section 199 of the 2016 Act.

Amendment of the Bankruptcy (Scotland) Act 2016

2.—(1) Section 2 (sequestration of estate of living debtor) of the 2016 Act is amended as follows.

(2) In subsection (2)(b)(ii), for "£25,000" substitute "£50,000".

(3) In subsection (2)(c), for "£2,000" substitute "£5,000".

(4) In subsection (2)(d), for "£1,000" substitute "£3,000".

(5) In subsection (2)(g), for "10" substitute "6".

(6) In subsection (3)(b), for "£3,000" substitute "£7,000".

3. In section 147C(1)(b) (debtor fails to co-operate with AiB as trustee) of the 2016 Act(**b**), after "sequestration", insert "of".

Amendment of the Debt Arrangement and Attachment (Scotland) Act 2002

4.—(1) In section 11 (articles exempt from attachment) of the 2002 Act—

(a) for the purposes of subsection (1)(a), the amount of aggregate value is "£2,000".

(b) for the purposes of subsection (1)(b), the amount for the value(**c**) of a vehicle in "£7,000".

(2) After subsection (1)(e), insert—

"(f) an invalid carriage within the meaning of section 20 of the Chronically Sick and Disabled Persons Act 1970(**d**) (use of invalid carriages on highways) which complies with the prescribed requirements within the meaning of that section.".

5. For the purposes of section 52(2) (articles with sentimental value) of the 2002 Act, the amount is £2,000.

6. In schedule 2 (non-essential assets) of the 2002 Act—

(a) for the purposes of paragraph 3(b) (implements, tools of trade etc. reasonably required), the amount of aggregate value is £2,000.

(b) in paragraph 4, after sub-paragraph (u), insert—

"(v) an invalid carriage within the meaning of section 20 of the Chronically Sick and Disabled Persons Act 1970(**e**) (use of invalid carriages on highways) which complies with the prescribed requirements within the meaning of that section.".

(**a**) S.S.I. 2016/397.
(**b**) Section 147C was inserted by section 12(2) of the Bankruptcy and Diligence (Scotland) Act 2024 (asp 9).
(**c**) The current value of £3,000 was prescribed by S.S.I. 2010/367.
(**d**) 1970 c. 44.
(**e**) 1970 c. 44.

Amendment of the Bankruptcy (Scotland) Regulations 2016

7.—(1) The 2016 Regulations are amended as follows.

(2) In regulation 2(1) (interpretation) in the definition of "Common Financial Statement" for "the Money Advice Trust" substitute "AiB".

(3) In regulation 5(1)(g) (persons who may not be approved money advisers) for "the Money Advice Trust" substitute "AiB".

(4) Omit regulation 18 (Money Advice Trust licence requirements: report).

8.—(1) Schedule 1 (forms) of the 2016 Regulations is amended as follows.

(2) In Form 1(**a**) (Debtor Application)—

(a) in section 3.1a, for "I have debts (including interest) totalling £1,500 or more but not exceeding £25,000" substitute "My debts (including interest) do not exceed £50,000",

(b) in section 3.1b, for "£2000" substitute "£5,000",

(c) in section 3.1c, for "£1,000" substitute "£3,000",

(d) in section 3.1f, for "10" substitute "6",

(e) before section 5.4, insert—

"By providing your email address you are confirming the Accountant in Bankruptcy can correspond with you by email. This will be the default method of correspondence unless you request a different method of contact at the relevant section later in this application form.",

(f) in section 12.9, for "£2,000" substitute "£5,000",

(g) in section 12.10, for "£1,000" substitute "£3,000",

(h) after the text box under the heading 'Sensitivity obligation', from "Preferred contact method" to "Writing" (including the square box), substitute—

"**Contact method**

If you do not want to correspond by email then please let us know what your preferred method of contact would be in the text box below.

If there are any adjustments the Accountant in Bankruptcy should make when contacting you then please include these in the text box below.

".

(3) In Form 8(**b**) (Form of Refusal of Award of Sequestration)—

(a) in the second bullet point, for "*less than £1500/* more than £25,000" substitute "more than £50,000",

(b) in the third bullet point, for "£2000" substitute "£5,000",

(c) in the fourth bullet point, for "£1,000" substitute "£3,000",

(d) in the seventh bullet point, for "10 years" substitute "6 years".

(**a**) Form 1 was relevantly amended by S.S.I. 2021/148.
(**b**) Form 8 was relevantly amended by S.S.I. 2021/148.

Revocations

9. Regulation 14 of the 2016 Regulations is revoked.

10. Regulation 4 of the Bankruptcy (Scotland) Amendment Regulations 2010(**a**) is revoked.

Name
Authorised to sign by the Scottish Ministers

St Andrew's House
Edinburgh
Date

(**a**) S.S.I. 2010/367.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Bankruptcy (Scotland) Act 2016 ("the 2016 Act"), the Debt Arrangement and Attachment (Scotland) Act 2002 ("the 2002 Act") and the Bankruptcy (Scotland) Regulations 2016 ("the 2016 Regulations").

Regulations 2 and 3 amend the 2016 Act. Regulation 2 revises the eligibility criteria for debtor applications for sequestration under the minimal asset process ("MAP"). It amends the limits relating to the total amount of a debtor's debt; the total value of a debtor's assets; the value of any single asset owned by a debtor; the frequency with which a debtor may apply for sequestration under the MAP; and the value of any vehicle reasonably required by the debtor up to a specified value to be excluded from the calculation. Regulation 3 corrects a minor omission.

Regulations 4 to 6 amend the 2002 Act rules for attaching movable property. Regulations 4 and 5 amend the upper limit of specified property (e.g. tools of trade, vehicles and sentimental items) which are to be exempt from attachment. An invalid carriage is also added to the list of articles exempt from attachment. The limit for tools of trade is increased from £1,000 to £2,000. The limit for a vehicle from £3,000 to £7,000. The limit for sentimental items exempt from an exceptional attachment order is increased from £150 to £2,000.

Regulation 6 amends details of articles in a dwellinghouse which cannot be considered non-essential assets for the purpose of an exceptional attachment order. The upper limit of tools of trade is amended from £1,000 to £2,000 and an invalid carriage is added to the list.

Regulation 7 amends the 2016 Regulations to replace references to the Money Advice Trust with references to the Accountant in Bankruptcy ("AiB"). The Common Financial Statement ("CFS") which is used as the "common financial tool" under the 2016 Act to asses the debtor's contribution in bankruptcy is now published and licensed by AiB. The requirement that a money adviser hold a licence from the Money Advice Trust to use the CFS is also amended to AiB instead of the Money Advice Trust. The requirement on AiB to notify the Money Advice Trust, where it appears money advisers have breached licence requirements, is removed since AiB is publishing and administering the CFS.

Regulation 8 amends two forms to take account of the amendments in regulation 2.

Regulations 9 and 10 revoke regulations 14 and 4 of the 2016 Regulations and Bankruptcy (Scotland) Amendment Regulations 2010 respectively.

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