POLICY NOTE

THE BANKRUPTCY AND ATTACHMENT (MISCELLANEOUS AMENDMENT) (SCOTLAND) REGULATIONS 2026

SSI 2026/XXX

The above instrument was made 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, 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 and all other powers enabling them to do so.

The instrument is subject to affirmative procedure.

Summary Box

Purpose of the Instrument. The instrument amends 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") to:

- allow more individuals in debt to qualify for and enter the Minimal Asset Process (MAP) bankruptcy and to enable individuals in debt to retain a greater value of specific possessions in bankruptcy and diligence.
- clearly substantiate the Accountant in Bankruptcy's (AiB) position in maintaining the common financial statement (CFS).
- insert a missing "of" in section 147C(1)(b) of the 2016 Act.
- update prescribed forms in the 2016 Regulations to reflect changes to the MAP entry criteria and to amend the default method of communication between AiB and the individual during the bankruptcy to email.

Policy Objectives

Bankruptcy and diligence

There are two types of bankruptcy in Scotland – Full administration bankruptcy and MAP bankruptcy.

Full administration bankruptcy is a longer (the individual is not discharged before twelve months), more expensive process for those individuals with more significant debts, assets that can be sold, and/or an ability to make a monthly financial contribution to their bankruptcy.

MAP bankruptcy is a quicker (the individual is discharged after 6 months), cheaper and less intrusive bankruptcy process for individuals who have limited assets and are in receipt of certain prescribed payments (certain benefits) or have insufficient income to make a contribution to their bankruptcy.

The Bankruptcy and Attachment (Miscellaneous Amendment) (Scotland) Regulations 2026 ("the Regulations") will amend the following entry criteria to provide more people with access to a MAP bankruptcy (where this is the best statutory debt solution for them) rather than having to enter a Full administration bankruptcy.

Criteria	Current limit	New limit
Maximum debt threshold	£25,000	£50,000
Maximum value of a single asset which can be owned	£1,000	£3,000
Total value of assets which can be owned	£2,000	£5,000
Re-application period	10 years	6 years

There are certain items which are excluded by the MAP bankruptcy entry criteria, that do not vest in the trustee in any bankruptcy or do not attach in diligence. These Regulations will increase the value of the following items, many of which have not been changed for a significant number of years and have not kept pace with economic inflation. The Regulations will enable individuals with significant financial problems to retain a greater amount of their possessions.

Item	Current value	Increased value
Vehicles	£3,000	£7,000
Tools of the trade	£1,000	£2,000
Sentimental items	£150	£2,000

The Regulations are intended to put the position beyond doubt in relation to how mobility scooters would be treated in bankruptcy cases. The Regulations will exclude mobility scooters from the total and single asset value thresholds for entry into MAP and also will not be considered as an asset in any bankruptcy. Mobility scooters will also be exempt from a diligence (debt enforcement process) called attachment.

The Regulations will insert a missing "of" into section 147C(1)(b) of the 2016 Act.

The prescribed forms in the 2016 Regulations will be amended by the Regulations to reflect the changes to the MAP entry criteria.

The Common Financial Statement (CFS)

The CFS is used to assess whether a person who is in, or applying for, a statutory debt solution has sufficient income to enable them to pay a contribution. This may impact on that indivdual's ability to meet the entry criteria for a debt solution. The CFS was licensed by the Money Advice Trust (MAT) who administered the tool; published guidance and the spending guidelines. MAT no longer license, uprate the spending guidelines or publish the CFS. These Regulations will replace any reference to MAT with AiB to clearly substantiate AiB's position in maintaining the CFS.

Method of communication

The Regulations will also amend the prescribed forms in the 2016 Regulations to make email the default method of communication between AiB and the individual during the administration of their case, unless the individual requests or requires an alternative communication method. This will make the communication process quicker, more efficient and cost effective for both parties.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

The Scottish Ministers have made the following statement regarding children's rights.

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Bankruptcy and Attachment (Miscellaneous Amendment) (Scotland) Regulations 2026 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

Having considered the recommendations of a stakeholder-led working group formed at Stage two of a wider three-stage review of Scotland's statutory debt solutions and the recommendations of a separate working group on diligence, the Scottish Government responded by developing proposals which were published for public consultation in August 2022. A summary of responses[1] to this consultation was published by the Scottish Government on 26 January 2023 and included the following:

- remove the single value asset threshold when applying for a Minimal Asset Process bankruptcy and review and uprate the current total threshold – 91% of respondents answered this question with 81% of those respondents agreeing
- ensure mobility scooters are excluded from asset criteria for entry into bankruptcy and from vesting with the trustee – 93% of respondents answered this question with 98% of those respondents agreeing
- review and uprate the existing vehicle threshold while consideration is given to whether a more fundamental change is necessary – 91% of respondents answered this question with 86% of those respondents agreeing

[1] https://www.gov.scot/publications/scotlands-statutory-debt-solutions-diligence-policy-review-summary-responses/pages/2/

- exceptional attachment - increasing the value of sentimental items which cannot be attached from £150 to £500; and extending the redemption period from seven days to 14 days where assets are not removed from the premises – 87% of respondents answered this question with 82.5% of those respondents agreeing

A more significant increase in sentimental items to £2,000 is proposed in the Regulations, which reflects the increase in the price of gold above CPI. While items of sentimental value are not necessarily made of gold, an inherited gold ring is a typical example of what would be affected by this provision.

The third stage was an independent review of Scotland's statutory debt solutions. This involved a call for evidence, a public consultation and two nationally representative surveys. A final report of recommendations was published in March 2026 and included:

- increasing the upper debt level for access to MAP bankruptcy to £50,000
- reducing the reapplication period for MAP bankruptcy to 6 years.
- increasing the value of vehicles excluded to £5,000 to minimise the detriment that may be arising from the vehicle limit being unrealistically low pending independent research being commissioned into used car prices.
- mobility scooters being exempted from consideration as an asset in insolvency.

There has been ongoing consultation with stakeholders, including quarterly meetings hosted by the previous Minister for Public Finance, providing stakeholders with details of proposed changes, including where these may differ to the consultations, and discussions with them where there have been differing views.

Impact Assessments

A BRIA has been completed on the effects of the Regulations and has been published when this instrument was laid before the Parliament. This includes consideration of the impact on consumers. A copy can be found on legislation.gov.uk[2].

The Regulations are likely to have a positive impact on consumers. They will widen access to MAP and provide individuals with debts enhanced protection where they require to access a bankruptcy to address their problem debt or where diligence is taken against them. While there may be some impacts on recoveries for creditors including small businesses this is not likely to be significant.

No equality issues were raised during the Equality Impact Assessment framing exercise and an Equality Impact Assessment Results document will be published on the Scottish Government website. The changes introduced widen access to MAP bankruptcy and enable individuals to retain more of their possessions in bankruptcy or when subject to debt recovery measures (diligence). These Regulations are not creating new products or processes but rather

[2] https://www.legislation.gov.uk

are updating the current ones. The amendments being made will apply equally to individuals irrespective of any protected characteristics.

In view of the Fairer Scotland Duty regarding socio-economic inequalities which exists under the Equality Act 2010, the impact of these propsals on those with low wealth and low income has been considered. There were no significant impacts on socio-economic inequalities identified and therefore a Fairer Scotland Duty Impact Assessement is not required.

The changes introduced are not likley to differently affect those who live on the islands compared to those who live on the mainland. Therefore a full Islands Community Impact Assessment was deemed not to be required.

Financial Effects

A Business and Regulatory Impact Assessment has been completed. The changes introduced by this instrument will not result in costs to the Scottish Government. Any costs of the changes being introduced by the Regulations will be absorbed in the normal business running costs.

Accountant in Bankruptcy on behalf of the Scottish Government
October 2026