



Bankruptcy and Debt Advice (Scotland) Act 2014

2014 asp 11

Functions of sheriff and Accountant in Bankruptcy in sequestration

26 Recall of sequestration by sheriff

- (1) In section 16 of the 1985 Act (petitions for recall of sequestration)—
- (a) after subsection (1), insert—

“(1A) A petition for recall of an award of sequestration may not be presented to the sheriff if the only ground is that the debtor has paid or is able to pay the debtor’s debts in full.

(1B) Subsection (1A) does not apply where—

 - (a) sequestration was awarded following a petition of a qualified creditor or qualified creditors, and
 - (b) a petition for recall of the award of sequestration includes the ground that the debtor was not apparently insolvent.”, and
 - (b) in subsection (4)—
 - (i) after “presented”, where it first occurs, insert “at any time”, and
 - (ii) paragraphs (a) and (b) are repealed.
- (2) The title of section 17 of the 1985 Act becomes “**Recall of sequestration by sheriff**”.
- (3) In section 17 of the 1985 Act—
- (a) in subsection (1)(a), the words “or has given sufficient security for their payment” are repealed,
 - (b) after subsection (2), insert—

“(2A) Where the sheriff intends to recall an award of sequestration on the ground that the debtor has paid the debtor’s debts in full, the order recalling the award may not—

 - (a) be made before the payment in full of the outlays and remuneration of the interim trustee and the trustee,
 - (b) be subject to any conditions which are to be fulfilled before the order takes effect.”,

Status: This is the original version (as it was originally enacted).

- (c) in subsection (3), after “On”, insert “or before”, and
- (d) in subsection (8), after “any”, in the second place where it occurs, insert “interim or final”.