



# Bankruptcy (Scotland) Act 2016

## 2016 asp 21

### PART 1

#### APPLICATION OR PETITION FOR SEQUESTRATION

##### *Creditor's oath*

#### **19 Creditor's oath**

- (1) Every creditor who is—
  - (a) a petitioner for sequestration,
  - (b) a creditor who concurs in a debtor application, or
  - (c) a qualified creditor who becomes sisted under subsection (3) of section 10 (or under that subsection as applied by section 6(9)),must produce an oath, in the prescribed form, made by or on behalf of the creditor.
- (2) The oath may be made—
  - (a) in the United Kingdom, before any person entitled to administer an oath there,
  - (b) outwith the United Kingdom, before—
    - (i) a British diplomatic or consular officer, or
    - (ii) any person authorised to administer an oath or affirmation under the law of the place where the oath is made.
- (3) The identity of the creditor and the identity of the person before whom the oath is made, and their authority to make and to administer the oath respectively, are presumed to be correctly stated unless the contrary is established.
- (4) Any seal or signature on the oath is presumed to be authentic unless the contrary is established.
- (5) If the oath contains an error or has omitted a fact—
  - (a) the sheriff to whom the petition was presented, or
  - (b) in the case of a creditor concurring in a debtor application, AiB,may at any time before sequestration is awarded allow another oath to be produced rectifying the original oath.

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*Status: This is the original version (as it was originally enacted).*

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- (6) This section applies to the making of that other oath as it applies to the making of the original oath.
- (7) The creditor must produce, along with the oath—
  - (a) an account or voucher (according to the nature of the debt) which constitutes *prima facie* evidence of the debt, and
  - (b) if a petitioning creditor, such evidence as is available to the creditor to show the apparent insolvency of the debtor.