



# Bankruptcy (Scotland) Act 2016

## 2016 asp 21

### PART 1

#### APPLICATION OR PETITION FOR SEQUESTRATION

#### *Jurisdiction*

#### **15 Jurisdiction**

- (1) Where a petition is presented for the sequestration of the estate of a debtor (whether living or deceased), the sheriff has jurisdiction if, at the relevant time, the debtor—
  - (a) had an established place of business in the sheriffdom, or
  - (b) was habitually resident in the sheriffdom.
- (2) AiB may determine a debtor application for the sequestration of the estate of a living or deceased debtor if, at the relevant time, the debtor—
  - (a) had an established place of business in Scotland, or
  - (b) was habitually resident in Scotland.
- (3) Where a petition is presented for the sequestration of the estate of an entity which may be sequestrated by virtue of section 6, the sheriff has jurisdiction if the entity—
  - (a) had at the relevant time an established place of business in the sheriffdom, or
  - (b) was constituted or formed under Scots law and at any time carried on business in the sheriffdom.
- (4) AiB may determine a debtor application for the sequestration of the estate of such an entity if the entity—
  - (a) had at the relevant time an established place of business in Scotland, or
  - (b) was constituted or formed under Scots law and at any time carried on business in Scotland.
- (5) Even where a person (whether living or deceased) does not fall within subsection (1), the sheriff has jurisdiction in respect of the sequestration of that person's estate if—
  - (a) a petition has been presented for the sequestration of the estate of a partnership of which the person is, or was at the relevant time before dying, a partner, and
  - (b) the process of that sequestration is still current.

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**Changes to legislation:** *Bankruptcy (Scotland) Act 2016, Section 15 is up to date with all changes known to be in force on or before 10 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (6) Subsection (7) applies as regards any proceedings under this Act which—
- (a) may be brought before a sheriff, and
  - (b) relate either to a debtor application or to the sequestration of a debtor's estate following any such application.
- (7) The proceedings are to be brought before the sheriff who, under subsection (1) or (3), would have jurisdiction in respect of a petition for sequestration of the debtor's estate.
- (8) References in this section to “the relevant time” are to any time in the year immediately preceding (as the case may be)—
- (a) the date of presentation of the petition,
  - (b) the date the debtor application is made, or
  - (c) the debtor's date of death.

<sup>F1</sup>(9) .....

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**Textual Amendments**

**F1** S. 15(9) omitted (31.12.2020) by virtue of [The Insolvency \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/94\)](#), regs. 1, **4(9)** (with reg. 9) (as amended by [S.S.I. 2020/337](#), regs. 1, 2); 2020 c. 1, Sch. 5 para. 1(1)

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**Modifications etc. (not altering text)**

**C1** S. 15 modified (30.11.2016) by [The Bankruptcy \(Scotland\) Regulations 2016 \(S.S.I. 2016/397\)](#), regs. 1, **31(3)**

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**Commencement Information**

**I1** S. 15 in force at 30.11.2016 by [S.S.I. 2016/294](#), **reg. 2**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 78(2)(a) words in s. 78(2) renumbered as s. 78(2)(a) by [2019 asp 4 s. 7\(2\)\(a\)](#)
- s. 78(2)(b) and word inserted by [2019 asp 4 s. 7\(2\)\(b\)](#)