



# Bankruptcy (Scotland) Act 2016

## 2016 asp 21

### PART 17

#### MISCELLANEOUS

#### **218 General offences by debtor etc.**

- (1) Subsection (2) applies where, during the relevant period, a debtor makes a false statement in relation to the debtor's assets or financial or business affairs —
  - (a) to a creditor, or
  - (b) to a person concerned in the administration of the debtor's estate.
- (2) Unless the debtor shows that the debtor neither knew nor had reason to believe that the statement was false, the debtor commits an offence.
- (3) Subsection (4) applies where, during the relevant period, a debtor or some other person acting in the debtor's interest (whether or not with the debtor's authority)—
  - (a) destroys,
  - (b) damages,
  - (c) conceals,
  - (d) disposes of, or
  - (e) removes from Scotland,any part of the debtor's estate or any document relating to the debtor's assets or business or financial affairs.
- (4) Unless the perpetrator shows that it was not done with intent to prejudice the creditors, the perpetrator commits an offence.
- (5) If, after the date of sequestration of the estate of a debtor, the debtor (being a person who is absent from Scotland) fails when required by the court to come to Scotland for any purpose connected with the administration of that estate, then the debtor commits an offence.
- (6) Subsection (7) applies where, during the relevant period, a debtor or some other person acting in the debtor's interest (whether or not with the debtor's authority) falsifies any document relating to the debtor's assets or business or financial affairs.

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*Status: This is the original version (as it was originally enacted).*

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- (7) Unless the perpetrator shows that the perpetrator had no intention to mislead the trustee, a commissioner or any creditor, the perpetrator commits an offence.
- (8) If a debtor whose estate is sequestrated—
- (a) knows that a person has falsified a document relating to the debtor’s assets or business or financial affairs, and
  - (b) fails, within one month of acquiring that knowledge, to report it to the trustee in the sequestration,
- then the debtor commits an offence.
- (9) Subsection (10) applies where, during the relevant period, a person (in this subsection and in subsection (10) referred to as “P”) who is absolutely insolvent—
- (a) transfers anything to another person for an inadequate consideration, or
  - (b) grants an unfair preference to any of P’s creditors.
- (10) Unless P shows that it was not done with intent to prejudice P’s creditors, P commits an offence.
- (11) Subsection (12) applies where, at any time in the period of one year ending with the sequestration of the estate of a debtor who is engaged in trade or business, the debtor otherwise than in the ordinary course of the trade or business pledges or disposes of property which the debtor has obtained on credit and has not paid for.
- (12) Unless the debtor shows that it was not done with intent to prejudice the debtor’s creditors, the debtor commits an offence.
- (13) If a debtor, either alone or jointly with another person, obtains credit—
- (a) to the extent of £2,000 or such other sum as may be prescribed or more, or
  - (b) of any amount where, at the time the credit is obtained, the debtor has debts amounting to £1,000 or such other sum as may be prescribed or more,
- without giving the person from whom the credit is obtained the relevant information about the debtor’s status, then the debtor commits an offence.