



Bankruptcy (Scotland) Act 2016

2016 asp 21

PART 3

INITIAL STAGES OF SEQUESTRATION, STATUTORY MEETING AND TRUSTEE VOTE

Initial stages

39 Interim preservation of estate

- (1) An interim trustee may, in pursuance of the function conferred by section 53(1), give general or particular directions to the debtor relating to the management of the debtor's estate.
- (2) In exercising the function so conferred, an interim trustee may—
 - (a) require the debtor to deliver up to the interim trustee—
 - (i) any money or valuables, or
 - (ii) any document relating to the debtor's business or financial affairs, belonging to, or in the possession of, the debtor or under the debtor's control,
 - (b) place in safe custody anything mentioned in paragraph (a),
 - (c) require the debtor to deliver up to the interim trustee any perishable goods belonging to the debtor or under the debtor's control,
 - (d) arrange for the sale or disposal of such goods,
 - (e) make, or cause to be made, an inventory or valuation of any property belonging to the debtor,
 - (f) require the debtor to implement any transaction entered into by the debtor,
 - (g) effect or maintain insurance policies in respect of the business or property of the debtor, or
 - (h) carry on any business of the debtor or borrow money in so far as it is necessary for the interim trustee to do so to safeguard the debtor's estate.
- (3) Section 111 applies to an interim trustee as it applies to a trustee.
- (4) The sheriff, on the application of an interim trustee, may—
 - (a) on cause shown, grant a warrant authorising the interim trustee to enter the house where the debtor resides or the debtor's business premises and to search

Status: This is the original version (as it was originally enacted).

- for and take possession of anything mentioned in subsection (2)(a) or (c) (if need be, by opening shut and lock-fast places), or
- (b) make such other order to safeguard the debtor’s estate as the sheriff thinks appropriate.
- (5) Where AiB is the interim trustee, the debtor may apply to AiB for a review of a direction under subsection (1) on the ground that the direction is unreasonable.
- (6) If an application under subsection (5) is made, AiB must—
- (a) take into account any representations made by an interested person within 21 days beginning with the day on which the application is made, and
- (b) confirm, amend or revoke the direction (whether or not substituting a new direction) within 28 days beginning with that day.
- (7) The sheriff may, on an application made by the debtor made within 14 days beginning with the day on which AiB makes a decision under subsection (6)(b)—
- (a) set aside a direction under subsection (1) or (6)(b) if the sheriff considers the direction to be unreasonable, and
- (b) in any event, give such directions to the debtor regarding the management of the debtor’s estate as the sheriff considers appropriate.
- (8) The debtor must comply with a direction—
- (a) under subsection (1) pending a decision by AiB under subsection (6)(b), and
- (b) under subsection (6)(b) pending the final determination of any appeal (subject to any interim order of the sheriff).
- (9) Where AiB is not the interim trustee, the sheriff, on an application by the debtor on the grounds that a direction under subsection (1) is unreasonable, may—
- (a) set aside the direction if the sheriff considers it to be unreasonable, and
- (b) in any event, give such directions to the debtor regarding the management of the debtor’s estate as the sheriff considers appropriate.
- (10) But, subject to any interim order of the sheriff, the debtor must comply with the direction appealed against pending the final determination of the appeal.