



# Bankruptcy (Scotland) Act 2016

## 2016 asp 21

### PART 4

#### TRUSTEES AND COMMISSIONERS

##### *Trustees*

#### **50 Functions of trustee**

- (1) In every sequestration there is to be a trustee, whose general functions are—
  - (a) to recover, manage and realise the estate of the debtor, whether situated in Scotland or elsewhere,
  - (b) to distribute the estate among the debtor's creditors according to their respective entitlements,
  - (c) to ascertain the reasons for the debtor's insolvency and the circumstances surrounding it,
  - (d) to ascertain the state of the debtor's liabilities and assets,
  - (e) to maintain, for the purpose of providing an accurate record of the sequestration process, a sederunt book during the trustee's term of office,
  - (f) to keep regular accounts of the trustee's intromissions with the debtor's estate, such accounts being available for inspection at all reasonable times by the commissioners, if there are any, the creditors and the debtor, and
  - (g) whether or not the trustee is still acting in the sequestration, to supply AiB with such information as AiB considers necessary to enable AiB to discharge AiB's functions under this Act.
- (2) The trustee, in performing the trustee's functions under this Act, must have regard to advice offered to the trustee by the commissioners, if there are any.
- (3) Where the trustee has reasonable grounds—
  - (a) to suspect that an offence has been committed in relation to a sequestration—
    - (i) by the debtor in respect of the debtor's assets, the debtor's dealings with them or the debtor's conduct in relation to the debtor's business or financial affairs, or

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**Changes to legislation:** Bankruptcy (Scotland) Act 2016, Section 50 is up to date with all changes known to be in force on or before 12 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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- (ii) by a person other than the debtor in that person's dealings with the debtor, the interim trustee or the trustee in respect of the debtor's assets, business or financial affairs, or
  - (b) to believe that any behaviour on the part of the debtor is of a kind that would result in a sheriff granting, under section 156(1), an application for a bankruptcy restrictions order,  
the trustee must report the matter to AiB.
- (4) A report under subsection (3) is absolutely privileged.
  - (5) Subsections (1)(g) and (3) do not apply in any case where AiB is the trustee.
  - (6) Where AiB is the trustee, AiB may apply to the sheriff for directions in relation to any particular matter arising in the sequestration.
  - (7) The debtor, a creditor or any other person having an interest may, if dissatisfied with any act, omission or decision of the trustee, apply to the sheriff in that regard.
  - (8) On an application under subsection (7), the sheriff may confirm, revoke, or modify the decision in question, confirm or annul the act in question, give the trustee directions or make such order as the sheriff thinks fit.
  - (9) The trustee must comply with the requirements of subsections (1)(a) to (d) and (2) only in so far as, in the trustee's view, to do so would be—
    - (a) of financial benefit to the debtor's estate, and
    - (b) in the interests of the creditors.

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**Commencement Information**

**11** S. 50 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\(2\)\(b\)](#)