

BANKRUPTCY AND DEBT ADVICE (SCOTLAND) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Functions of sheriff and Accountant in Bankruptcy in sequestration

Section 25 – Application by trustee for direction on matters in sequestration

53. This section amends section 3(6) and inserts new section 3A of the 1985 Act in order to provide for trustees (except for AiB) to be able to apply directly to AiB for directions. If a decision cannot be made, or matters are more complex than anticipated or for any other reason, section 3A(3) also provides for AiB to be able to refer the matter to the sheriff for the sheriff's directions. As with the sheriff's directions, this can be on the handling of the bankruptcy generally and not only on a point of law. The trustee, debtor, creditor or anyone having an interest would have the right to be heard at the hearing before the sheriff.
54. Subsection 3A(4) provides that the trustee may apply to AiB for a review of a direction under this section. An application for a review must be made within 14 days of the decision being made and section 3A(7) confirms that a right of onward appeal to the sheriff remains, once AiB has reviewed its decision.