



# Bankruptcy (Scotland) Act 2016

## 2016 asp 21

### PART 14

#### VOLUNTARY TRUST DEEDS FOR CREDITORS

##### *Application for conversion to sequestration*

#### **190 Application for conversion to sequestration**

- (1) This section applies where a member State liquidator proposes to apply to AiB for the conversion under Article 37 of the EC insolvency proceedings regulation (conversion of earlier proceedings) of a protected trust deed into sequestration.
- (2) An affidavit complying with section 191 must be—
  - (a) prepared and sworn, and
  - (b) submitted to AiB in support of the application.
- (3) The application and affidavit required under subsection (2) are to be served on—
  - (a) the debtor,
  - (b) the trustee, and
  - (c) such other person as may be prescribed.

#### **191 Contents of affidavit required under section 190(2)**

- (1) An affidavit required under section 190(2) must—
  - (a) state that main proceedings have been opened in relation to the debtor in a member State other than the United Kingdom,
  - (b) state that the member State liquidator believes that the conversion of the protected trust deed into a sequestration would prove to be in the interests of the creditors in the main proceedings,
  - (c) contain such other information as the member State liquidator considers will be of assistance to AiB—
    - (i) in deciding whether to make an order under section 192, and
    - (ii) if AiB were to do so, in considering the need for any consequential provision that would be necessary or desirable, and

- (d) contain such other matters as may be prescribed.
- (2) Any affidavit under this section must be sworn by, or on behalf of, the member State liquidator.

**192 Powers of Accountant in Bankruptcy on application for conversion to sequestration**

- (1) After considering an application for conversion of a protected trust deed into a sequestration, AiB may make such order as AiB thinks fit.
- (2) If AiB makes an order for conversion into sequestration, the order may contain all such consequential provisions as AiB thinks necessary or desirable.
- (3) The provisions of this Act apply to an order made by AiB under subsection (1) as if the order were a determination by AiB of a debtor application—
  - (a) under section 22(1), and
  - (b) in relation to which the member State liquidator is a concurring creditor.
- (4) On AiB making an order for conversion into sequestration under subsection (1), any expenses properly incurred as expenses of the administration of the trust deed in question become a first charge on the debtor's estate.