



Bankruptcy (Scotland) Act 2016

2016 asp 21

PART 8

ADMINISTRATION OF ESTATE BY TRUSTEE

Financial education for debtor

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- (1) The trustee must notify a living debtor that the debtor is required to undertake a prescribed course of financial education (a “financial education course”) specified by the trustee if, in the opinion of the trustee—
 - (a) any of the circumstances mentioned in subsection (2) applies, and
 - (b) undertaking the course would be appropriate for the debtor.
- (2) The circumstances are—
 - (a) that in the 5 years ending on the date on which the sequestration was awarded—
 - (i) the debtor’s estate was sequestrated,
 - (ii) the debtor granted a protected trust deed,
 - (iii) an analogous remedy (as defined in section 17(8)) was in force in respect of the debtor, or
 - (iv) the debtor participated in a debt management programme under which the debtor made regular payments,
 - (b) that the debtor is subject to, or under investigation with a view to an application being made for, a bankruptcy restrictions order,
 - (c) that the trustee considers that the pattern of the debtor’s behaviour, whether before or after the award of sequestration, is such that the debtor would benefit from a financial education course, and
 - (d) that the debtor agrees to undertake a financial education course.
- (3) The trustee must decide whether to issue a notification under subsection (1)—
 - (a) within 6 months beginning with the date of the award of sequestration, and
 - (b) in a case where section 143 applies, as soon as reasonably practicable after—
 - (i) the trustee ascertains the whereabouts of the debtor, or

Status: This is the original version (as it was originally enacted).

- (ii) the debtor makes contact with the trustee.
- (4) A debtor must not be required to undertake or, as the case may be, complete the financial course specified by the trustee if, in the opinion of the trustee, the debtor—
 - (a) is unable to participate in the course as a result of the debtor’s health (including by reason of disability or of physical or mental illness), or
 - (b) has completed a financial education course in the 5 years ending on the date on which the sequestration of the debtor’s estate was awarded.
- (5) Regulations under subsection (1) may in particular—
 - (a) prescribe the content, format and method of delivery of a course,
 - (b) prescribe different courses for different circumstances, or
 - (c) make provision for particular courses to be specified by a trustee where particular circumstances in subsection (2) apply.
- (6) In subsection (2)(a)(iv), “debt management programme” includes in particular a programme approved in accordance with section 2 of the 2002 Act.