



Bankruptcy (Scotland) Act 2016

2016 asp 21

PART 16

ACCOUNTANT IN BANKRUPTCY

Functions

200 Supervisory functions of Accountant in Bankruptcy

- (1) AiB has, in the administration of sequestration and personal insolvency, the following general functions—
- (a) as regards interim trustees (not being AiB), trustees in sequestrations (not being AiB), trustees under protected trust deeds and commissioners—
 - (i) supervision of the performance by them of the functions conferred on them by this Act, or by any other enactment or by any rule of law, and
 - (ii) the investigation of any complaints made against them,
 - (b) the determination of debtor applications,
 - (c) the maintenance of a register (in this Act referred to as the “register of insolvencies”), in such form as may be prescribed,
 - (d) the preparation of an annual report, and
 - (e) such other functions as may from time to time be conferred on AiB by the Scottish Ministers.
- (2) The register of insolvencies is to contain particulars of—
- (a) persons who are the subject of notices under sections 195(1) and 196(1),
 - (b) estates which have been sequestrated,
 - (c) trust deeds sent to AiB for registration,
 - (d) bankruptcy restrictions orders and interim bankruptcy restrictions orders,
 - (e) the winding up and receivership of business associations which the Court of Session has jurisdiction to wind up, and
 - (f) any other document specified in regulations made under subsection (1) or any other enactment.
- (3) The annual report must be presented to the Scottish Ministers and the Court of Session and must contain—

Status: This is the original version (as it was originally enacted).

- (a) statistical information relating to—
 - (i) the state of all sequestrations of which particulars have been registered in the register of insolvencies during the year to which the report relates,
 - (ii) the winding up and receivership of business associations of which particulars have been registered in the register of insolvencies during the year to which the report relates,
 - (b) particulars of trust deeds registered as protected trust deeds in that year, and
 - (c) particulars of the performance of AiB’s functions under this Act.
- (4) If it appears to AiB that a person mentioned in subsection (1)(a) has failed, without reasonable excuse, to perform a duty imposed on that person by any provision of this Act, or by any other enactment or by any rule of law, AiB must report the matter to the sheriff who, after hearing the person on the matter, may—
- (a) remove the person from office,
 - (b) censure the person, or
 - (c) make such other order as the circumstances of the case may require.
- (5) Subsection (6) applies where AiB has reasonable grounds to suspect that an offence has been committed—
- (a) by a person mentioned in subsection (1)(a) in the performance of the person’s functions under this Act or any other enactment or any rule of law,
 - (b) in relation to a sequestration, 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
 - (c) in relation to a sequestration, by a person other than the debtor in that person’s dealings with the debtor, the interim trustee or the trustee in the sequestration in respect of the debtor’s assets or the debtor’s business or financial affairs.
- (6) AiB must report the matter to the Lord Advocate.
- (7) AiB must—
- (a) make the register of insolvencies available for inspection at all reasonable times, and
 - (b) provide any person, on request, with a certified copy of an entry in the register.
- (8) Regulations under subsection (1)(c) may in particular prescribe circumstances where information need not be included in the register of insolvencies if, in the opinion of AiB, inclusion of the information would be likely to jeopardise the safety or welfare of any person.
- (9) In subsections (2) and (3), “business association” has the meaning given in section C2 of Part 2 of schedule 5 of the Scotland Act 1998.