



# Bankruptcy (Scotland) Act 2016

## 2016 asp 21

### PART 17

#### MISCELLANEOUS

#### **206 Liabilities and rights of co-obligants**

- (1) Where a creditor has an obligant bound to the creditor along with the debtor for the whole or part of the debt, the obligant is not freed or discharged from the obligant's liability for the debt by reason of the discharge of the debtor or by virtue of the creditor's voting or drawing a dividend or assenting to, or not opposing, the discharge of the debtor.
- (2) Subsection (3) applies where—
  - (a) the creditor has had a claim accepted in whole or in part, and
  - (b) the obligant holds a security over any part of the debtor's estate
- (3) The obligant must account to the trustee in the sequestration so as to put the estate in the same position as if the obligant had paid the debt to the creditor and thereafter had had the obligant's claim accepted in whole or in part in the sequestration after deduction of the value of the security.
- (4) The obligant may require and obtain at the obligant's own expense from the creditor an assignation of the debt on payment of the amount of the debt and on that being done may in respect of the debt submit a claim, and vote and draw a dividend, if otherwise legally entitled to do so.
- (5) Subsection (4) is without prejudice to any right, under any rule of law, of a co-obligant who has paid the debt.
- (6) In this section, “obligant” includes cautioner.

#### **Commencement Information**

**II** S. 206 in force at 30.11.2016 by [S.S.I. 2016/294](#), [reg. 2](#)

**Changes to legislation:**

Bankruptcy (Scotland) Act 2016, Section 206 is up to date with all changes known to be in force on or before 14 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.

[View outstanding changes](#)

**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\(2\)\(b\)](#)