



Bankruptcy (Scotland) Act 2016

2016 asp 21

PART 17

MISCELLANEOUS

211 Power of court to cure defects in procedure

- (1) On the application of a person having an interest, the sheriff may—
 - (a) if there has been a failure to comply with a requirement of this Act (or of regulations under this Act), make an order—
 - (i) waiving the failure, and
 - (ii) so far as practicable, restoring any person prejudiced by the failure to the position that person would have been in but for the failure, or
 - (b) if for any reason anything required or authorised to be done in, or in connection with, the sequestration process cannot be done, make such order as may be necessary to enable the thing to be done.
- (2) An order under subsection (1) may waive a failure to comply with a requirement mentioned in section 212(1)(a) or (b) only if the failure relates to—
 - (a) a document to be lodged with the sheriff,
 - (b) a document issued by the sheriff, or
 - (c) a time limit specified in relation to proceedings before the sheriff or a document relating to those proceedings.
- (3) In an order under subsection (1), the sheriff may impose such conditions, including conditions as to expenses, as the sheriff thinks fit and may—
 - (a) authorise, or dispense with, the performance of any act in the sequestration process,
 - (b) appoint as trustee on the debtor's estate AiB or a person who would be eligible to be elected under section 49 (whether or not in place of an existing trustee),
 - (c) extend or waive a time limit specified in or under this Act.
- (4) Subsection (5) applies where the sheriff, or as the case may be the Court of Session, considers that a remit from the sheriff to the Court of Session is desirable because of the importance or complexity of the matters raised by an application under subsection (1).

Status: This is the original version (as it was originally enacted).

(5) The application—

- (a) may at any time be so remitted—
 - (i) of the sheriff’s own accord, or
 - (ii) on an application by a person having an interest, and
- (b) must be so remitted, if the Court of Session so directs on an application by any such person.