



Bankruptcy (Scotland) Act 2016

2016 asp 21

PART 2

SEQUESTRATION: AWARD AND RECALL

Recall of sequestration

29 Petitions for recall of sequestration

- (1) A petition for recall of an award of sequestration may be presented to the sheriff by—
 - (a) the debtor,
 - (b) any creditor,
 - (c) any other person having an interest (whether or not a person who was a petitioner for, or concurred in a debtor application for, the sequestration),
 - (d) the trustee in the sequestration, or
 - (e) AiB.
- (2) Such a petition may not be presented to the sheriff if the only ground is that the debtor has paid, or is able to pay, the debtor's debts in full.
- (3) Subsection (2) does not apply where—
 - (a) sequestration was awarded following a petition of a qualified creditor or qualified creditors, and
 - (b) a petition for recall of the award of sequestration includes the ground that the debtor was not apparently insolvent.
- (4) A copy of the petition, along with a notice stating that the recipient of the notice may lodge answers to the petition within 14 days after service of the notice, must be served by the petitioner on—
 - (a) the debtor,
 - (b) any person who was a petitioner for, or concurred in a debtor application for, the sequestration,
 - (c) the trustee, and
 - (d) AiB.

Changes to legislation: Bankruptcy (Scotland) Act 2016, Section 29 is up to date with all changes known to be in force on or before 19 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. (See end of Document for details) [View outstanding changes](#)

- (5) On service, under subsection (4), of a copy of the petition AiB must enter particulars of the petition in the register of insolvencies.
- (6) A petition under this section may be presented at any time.
- (7) But subsection (6) is subject to sections 114(3) and 115(3).
- (8) Notwithstanding that a petition has been presented under this section, the proceedings in the sequestration are to continue as if the petition had not been presented until the recall is granted.
- (9) But subsection (8) is subject to section 30(7).
- (10) Subsection (11) applies where a petitioner under this section, or a person who has lodged answers to the petition, withdraws or dies.
- (11) Any person—
 - (a) entitled to present, or
 - (b) entitled to lodge answers to,a petition under this section may be sisted in place of the person who has withdrawn or died.

Commencement Information

II [S. 29](#) in force at 30.11.2016 by [S.S.I. 2016/294](#), [reg. 2](#)

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