



# 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.

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*Status: This is the original version (as it was originally enacted).*

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- (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  - (b) entitled to lodge answers to,a petition under this section may be sisted in place of the person who has withdrawn or died.