



# Bankruptcy (Scotland) Act 2016

## 2016 asp 21

### PART 1

#### APPLICATION OR PETITION FOR SEQUESTRATION

##### *Applications and petitions*

#### **6 Sequestration of other estates**

- (1) The estate belonging to any of the following (or held for or jointly by, as the case may be, the trustees, partners or members of any of the following) may be sequestrated—
- (a) a trust in respect of debts incurred by it,
  - (b) a partnership (including a dissolved partnership),
  - (c) a body corporate,
  - (d) an unincorporated body,
  - (e) a limited partnership (including a dissolved limited partnership) within the meaning of the Limited Partnerships Act 1907.
- (2) But it is not competent to sequestrate the estate of any of the following—
- (a) a company registered under the Companies Act 2006,
  - (b) a limited liability partnership, or
  - (c) any other entity if it is an entity in respect of which an enactment provides, expressly or by implication, that sequestration is incompetent.
- (3) The sequestration of a trust estate in respect of debts incurred by the trust is—
- (a) by debtor application made by a majority of trustees, with the concurrence of a qualified creditor or qualified creditors, or
  - (b) on the petition of—
    - <sup>F1</sup>(i) .....
    - <sup>F1</sup>(ii) .....
    - (iii) a qualified creditor or qualified creditors, if the trustees as such are apparently insolvent.
- (4) The sequestration of the estate of a partnership is—

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- (a) by debtor application made by the partnership where the partnership is apparently insolvent,
  - (b) by debtor application made by the partnership with the concurrence of a qualified creditor or qualified creditors, or
  - (c) on the petition of—
    - <sup>F2</sup>(i) .....
    - <sup>F2</sup>(ii) .....
    - (iii) a trustee acting under a trust deed, or
    - (iv) a qualified creditor or qualified creditors, if the partnership is apparently insolvent.
- (5) For the purposes of an application under subsection (4)(a), section 16(4) is to be read as if—
- (a) the word “either”, and
  - (b) the words “or if any of the partners is apparently insolvent for a debt of the partnership”,
- were omitted.
- (6) A petition under subsection (4)(c) may be combined with a petition for the sequestration of the estate of any of the partners as an individual where that individual is apparently insolvent.
- (7) The sequestration of the estate of a body corporate or of an unincorporated body is—
- (a) by debtor application made by a person authorised to act on behalf of the body, with the concurrence of a qualified creditor or qualified creditors, or
  - (b) on the petition of—
    - <sup>F3</sup>(i) .....
    - <sup>F3</sup>(ii) .....
    - (iii) a qualified creditor or qualified creditors, if the body is apparently insolvent.
- (8) The application of this Act to the sequestration of the estate of a limited partnership is subject to such modifications as may be prescribed.
- (9) Subsections (3)(a) of section 8 and (3) to (6) of section 10 apply for the purposes of this section as they apply for the purposes of their respective sections.

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#### **Textual Amendments**

- F1** S. 6(3)(b)(i)(ii) omitted (31.12.2020) by virtue of [The Insolvency \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/94\)](#), regs. 1, **4(4)** (with reg. 9) (as amended by S.S.I. 2020/337, regs. 1, 2); 2020 c. 1, Sch. 5 para. 1(1)
- F2** S. 6(4)(c)(i)(ii) omitted (31.12.2020) by virtue of [The Insolvency \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/94\)](#), regs. 1, **4(4)** (with reg. 9) (as amended by S.S.I. 2020/337, regs. 1, 2); 2020 c. 1, Sch. 5 para. 1(1)
- F3** S. 6(7)(b)(i)(ii) omitted (31.12.2020) by virtue of [The Insolvency \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/94\)](#), regs. 1, **4(4)** (with reg. 9) (as amended by S.S.I. 2020/337, regs. 1, 2); 2020 c. 1, Sch. 5 para. 1(1)

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#### **Modifications etc. (not altering text)**

- C1** S. 6 excluded (8.12.2017) by [The Risk Transformation Regulations 2017 \(S.I. 2017/1212\)](#), regs. 1(2), **169(1)(f)** (with reg. 189)

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#### **Commencement Information**

**II** S. 6 in force at 30.11.2016 by [S.S.I. 2016/294](#), [reg. 2](#)

**Changes to legislation:**

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