



# Bankruptcy (Scotland) Act 2016

## 2016 asp 21

### PART 8

#### ADMINISTRATION OF ESTATE BY TRUSTEE

##### *Contractual powers and money received*

#### **110 Contractual powers of trustee**

- (1) The trustee in the sequestration may, as respects any contract entered into by the debtor before the date of sequestration—
  - (a) adopt it (except where adoption is precluded by its express or implied terms) if the trustee considers that its adoption would be beneficial to the administration of the debtor's estate, or
  - (b) refuse to adopt it.
- (2) But subsection (1) is subject to subsections (3) and (10).
- (3) The trustee must, within 28 days after the receipt by the trustee of a request in writing from any party to a contract entered into by the debtor, adopt or refuse to adopt the contract.
- (4) The 28 days mentioned in subsection (3) may be extended—
  - (a) in a case where AiB is the trustee, by the sheriff on the application of AiB, and
  - (b) in any other case, by AiB on the application of the trustee.
- (5) The trustee may, within 14 days beginning with the day of the decision, apply to AiB for a review of a decision of AiB under subsection (4)(b).
- (6) If an application for a review under subsection (5) is made, AiB must—
  - (a) take into account any representations made by an interested party within 21 days beginning with the day on which the application is made, and
  - (b) confirm, amend or revoke the decision within 28 days beginning with that day.
- (7) The trustee may, within 14 days beginning with the day of the decision, appeal to the sheriff against a decision by AiB under subsection (6)(b).
- (8) AiB may refer a case to the sheriff for a direction before—

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*Status: This is the original version (as it was originally enacted).*

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- (a) making a decision under subsection (4)(b), or
  - (b) undertaking any review under this section.
- (9) An application for a review under subsection (5) may not be made in relation to a matter on which AiB has applied to the sheriff for a direction under subsection (8).
- (10) If, within the 28 days mentioned in subsection (3) or as the case may be within the longer period allowed by virtue of subsection (4), the trustee does not reply in writing to a request under subsection (3), the trustee is deemed to have refused to adopt the contract.
- (11) The trustee may enter into any contract where the trustee considers that to do so would be beneficial for the administration of the debtor's estate.

## **111 Money received by trustee**

- (1) All money received by the trustee in the sequestration in the exercise of the trustee's functions must be deposited by the trustee in the name of the debtor's estate in an interest-bearing account in an appropriate bank or institution.
- (2) But subsection (1) is subject to subsections (3) and (5).
- (3) In any case where the trustee is AiB, all money received by AiB in the exercise of AiB's functions as trustee must be deposited by AiB in an interest-bearing account in an appropriate bank or institution—
- (a) in the name of the debtor's estate, or
  - (b) in the name of the Scottish Ministers.
- (4) But subsection (3) is subject to subsection (5).
- (5) The trustee may at any time retain in the trustee's hands a sum not exceeding £200 or such other sum as may be prescribed.