



Bankruptcy (Scotland) Act 2016

2016 asp 21

PART 2

SEQUESTRATION: AWARD AND RECALL

Award of sequestration

22 When sequestration is awarded

- (1) Where a debtor application (other than an application under section 5(a)) is made and neither section 20 nor section 21 applies, AiB must award sequestration forthwith if satisfied—
 - (a) that the application is made in accordance with—
 - (i) this Act, and
 - (ii) any provisions made under this Act,
 - (b) that section 2(8) applies to the debtor, and
 - (c) that the provisions of section 8(3)(a) have been complied with.
- (2) Where a debtor application is made under section 5(a), AiB must award sequestration forthwith if satisfied—
 - (a) that the application has been made in accordance with this Act and with any provisions made under this Act, and
 - (b) that the provisions of section 8(3)(a) have been complied with.
- (3) Where a petition for sequestration of the estate of a debtor is presented by—
 - (a) a creditor, or
 - (b) a trustee acting under a trust deed,the sheriff must grant warrant to cite the debtor to appear before the sheriff on such date as is specified in the warrant to show cause why sequestration should not be awarded.
- (4) Any date specified under subsection (3) must be—
 - (a) no fewer than 6, and
 - (b) no more than 14,days after the date of citation.

Status: This is the original version (as it was originally enacted).

- (5) The sheriff must forthwith award sequestration on that petition on being satisfied—
- (a) if the debtor has not appeared, that proper citation has been made of the debtor,
 - (b) that the petition has been presented in accordance with this Act,
 - (c) that the provisions of section 13(1) have been complied with,
 - (d) that in the case of a petition by a trustee—
 - (i) at least one of the conditions in section 2(7)(a) applies, or
 - (ii) the petition includes an averment in accordance with section 2(7)(b),and
 - (e) that, in the case of a petition by a creditor, the requirements of this Act relating to apparent insolvency have been fulfilled.
- (6) But subsection (5) is subject to section 23.
- (7) In this Act, “the date of sequestration” means—
- (a) where a debtor application is made, the date on which sequestration is awarded,
 - (b) where the petition for sequestration is presented by a creditor, or by a trustee acting under a trust deed, and sequestration is awarded, the date on which the sheriff granted warrant under subsection (3) (or, where more than one warrant is so granted, the date on which the first warrant is so granted).