



# Bankruptcy (Scotland) Act 2016

## 2016 asp 21

### PART 2

#### SEQUESTRATION: AWARD AND RECALL

##### *Recall of sequestration*

#### **32 Application under section 31: further procedure**

- (1) This section applies where an application is made under section 31.
- (2) The trustee must prepare a statement on the debtor's affairs so far as within the knowledge of the trustee.
- (3) The trustee must submit the statement to AiB—
  - (a) at the same time as the trustee makes the application under section 31, or
  - (b) where that application is made by another person, within 21 days beginning with the day on which notice is given under section 31(3)(b).
- (4) The statement must—
  - (a) indicate whether the debtor has agreed to—
    - (i) the interim trustee's claim for outlays reasonably incurred and for remuneration for work reasonably undertaken by the interim trustee (including any outlays and remuneration which are yet to be incurred), and
    - (ii) the trustee's claim for outlays reasonably incurred and for remuneration for work reasonably undertaken by the trustee (including any outlays and remuneration which are yet to be incurred),
  - (b) state whether or not the debtor's debts have been paid in full (including the payment of the outlays and remuneration of the interim trustee and of the trustee),
  - (c) where the debtor's debts have not been so paid—
    - (i) provide details of any debt which has not been paid, and
    - (ii) indicate whether, in the opinion of the trustee, the debtor's assets are likely to be sufficient to pay the debts in full (including the payment of the outlays and remuneration of the interim trustee and of the trustee)

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*Status: This is the original version (as it was originally enacted).*

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- within 8 weeks beginning with the day on which the statement is submitted, and
- (d) provide details of any distribution of the debtor's estate.
- (5) The trustee must notify every creditor known to the trustee that the application has been made—
- (a) where it is made by the trustee, within 7 days beginning with the day on which it is made, and
- (b) where it is made by a person other than the trustee, within 7 days beginning with the day on which notice is given under section 31(3)(b).
- (6) If a creditor has not previously submitted a claim under section 46 or 122, the creditor must, in order to be included in the statement made by the trustee, submit a claim.
- (7) That claim must be submitted—
- (a) in accordance with section 46(2) to (4), and
- (b) within 14 days beginning with the day on which notice is given under subsection (5).
- (8) If any creditor submits a claim in accordance with subsection (7), the trustee must update and re-submit the statement within 7 days after the days mentioned in paragraph (b) of that subsection have expired.
- (9) The trustee must update and re-submit the statement if—
- (a) the statement previously submitted did not state in accordance with subsection (4)(b) that the debtor's debts have been paid in full, and
- (b) before the day on which the application is determined by AiB, the trustee is able to make that statement.