



Bankruptcy (Scotland) Act 2016

2016 asp 21

PART 1

APPLICATION OR PETITION FOR SEQUESTRATION

Concurrent proceedings

17 Concurrent proceedings for sequestration or analogous remedy

- (1) If, in the course of sequestration proceedings (referred to in this section and in section 18 as the “instant proceedings”), a person who is a petitioner for sequestration, the debtor, or a creditor concurring in a debtor application is or becomes aware of any of the circumstances mentioned in subsection (2), that person must as soon as may be take the action mentioned in subsection (3).
- (2) The circumstances are that, notwithstanding the instant proceedings—
- (a) a petition for sequestration of the debtor's estate is before a sheriff,
 - (b) such sequestration has been awarded [^{F1}and the debtor's estate is being sequestrated],
 - (c) a debtor application [^{F2}has been made] in relation to the debtor's estate [^{F3}is pending],
 - (d) sequestration has been awarded by virtue of any such application [^{F4}and the debtor's estate is being sequestrated],
 - (e) a petition for the appointment of a judicial factor on the debtor's estate is before a court,
 - (f) such a judicial factor has been appointed,
 - (g) a petition is before a court for the winding up of the debtor under [^{F5}section 28 of the Limited Partnerships Act 1907,] Part 4 or 5 of the Insolvency Act 1986 or section 372 of the Financial Services and Markets Act 2000,
 - [^{F6}(ga) such a petition has been granted,
 - (gb) an application in respect of the debtor is before a court under section 29 of the Limited Partnerships Act 1907,
 - (gc) such an application has been granted,]
 - (h) an application for an analogous remedy in respect of the debtor's estate is proceeding, or

Changes to legislation: *Bankruptcy (Scotland) Act 2016, Section 17 is up to date with all changes known to be in force on or before 14 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (i) such an analogous remedy is in force.
- (3) The action is—
- (a) where the instant proceedings are by petition for sequestration, to notify the sheriff to whom that petition was presented of the circumstances in question,
 - (b) where the instant proceedings are by debtor application, to notify AiB of those circumstances.
- (4) A petitioner who fails to comply with subsection (1) may be made liable for the expenses of presenting the petition for sequestration.
- (5) A debtor who fails so to comply commits an offence.
- (6) A debtor who commits an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (7) A creditor concurring in a debtor application who fails so to comply may be made liable for the expenses of making the debtor application.
- [^{F7}(7A) For the purposes of subsection (2)(c), a debtor application is “pending” if it has been made and has not fallen, been withdrawn or been determined.]
- (8) In this section and in section 18, “analogous remedy” means—
- (a) in relation to England and Wales—
 - (i) an individual voluntary arrangement or bankruptcy order under the Insolvency Act 1986,
 - (ii) an administration order under section 112 of the County Courts Act 1984, or
 - (iii) a remedy having the like effect to any of those mentioned in subparagraphs (i) and (ii) or to sequestration, and
 - (b) in relation to Northern Ireland or to any other country, a remedy having the like effect as a remedy mentioned in paragraph (a).

Textual Amendments

- F1** Words in s. 17(2)(b) inserted (26.10.2023 for specified purposes) by [Economic Crime and Corporate Transparency Act 2023 \(c. 56\), ss. 135\(2\)\(a\), 219\(1\)\(2\)\(b\)](#)
- F2** Words in s. 17(2)(c) omitted (26.10.2023 for specified purposes) by virtue of [Economic Crime and Corporate Transparency Act 2023 \(c. 56\), ss. 135\(2\)\(b\)\(i\), 219\(1\)\(2\)\(b\)](#)
- F3** Words in s. 17(2)(c) inserted (26.10.2023 for specified purposes) by [Economic Crime and Corporate Transparency Act 2023 \(c. 56\), ss. 135\(2\)\(b\)\(ii\), 219\(1\)\(2\)\(b\)](#)
- F4** Words in s. 17(2)(d) inserted (26.10.2023 for specified purposes) by [Economic Crime and Corporate Transparency Act 2023 \(c. 56\), ss. 135\(2\)\(c\), 219\(1\)\(2\)\(b\)](#)
- F5** Words in s. 17(2)(g) inserted (26.10.2023 for specified purposes) by [Economic Crime and Corporate Transparency Act 2023 \(c. 56\), ss. 135\(2\)\(d\), 219\(1\)\(2\)\(b\)](#)
- F6** S. 17(2)(ga)-(gc) inserted (26.10.2023 for specified purposes) by [Economic Crime and Corporate Transparency Act 2023 \(c. 56\), ss. 135\(2\)\(e\), 219\(1\)\(2\)\(b\)](#)
- F7** S. 17(7A) inserted (26.10.2023 for specified purposes) by [Economic Crime and Corporate Transparency Act 2023 \(c. 56\), ss. 135\(2\)\(f\), 219\(1\)\(2\)\(b\)](#)

Commencement Information

- I1** S. 17 in force at 30.11.2016 by [S.S.I. 2016/294, reg. 2](#)

Changes to legislation:

Bankruptcy (Scotland) Act 2016, Section 17 is up to date with all changes known to be in force on or before 14 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

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