



# Bankruptcy (Scotland) Act 2016

## 2016 asp 21

### PART 1

#### APPLICATION OR PETITION FOR SEQUESTRATION

##### *Applications and petitions*

#### **13 Further provisions relating to presentation of petitions**

- (1) The petitioner is, on the day the petition for sequestration is presented under section 2, 5 or 6, to send a copy of the petition to AiB.
- (2) A petition for the sequestration of the estate of a debtor (other than a limited partnership or a deceased debtor) may be presented—
  - (a) by a qualified creditor or qualified creditors only if the apparent insolvency founded on in the petition was constituted within 4 months before the date of presentation of the petition, or
  - (b) at any time by—
    - (i) a trustee acting under a trust deed,
    - (ii) a temporary administrator, or
    - (iii) a member State liquidator appointed in main proceedings.
- (3) A petition for the sequestration of the estate of a limited partnership may be presented—
  - (a) by a qualified creditor or qualified creditors only if the apparent insolvency founded on in the petition was constituted within 4 months (or such other period as may be prescribed) before the date of presentation of the petition, or
  - (b) at any time by—
    - (i) a trustee acting under a trust deed,
    - (ii) a temporary administrator, or
    - (iii) a member State liquidator appointed in main proceedings.
- (4) A petition for the sequestration of the estate of a deceased debtor may be presented—
  - (a) by a qualified creditor or qualified creditors—

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*Status: This is the original version (as it was originally enacted).*

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- (i) in a case where the apparent insolvency of the debtor founded on in the petition was constituted within 4 months before the date of death, at any time, and
  - (ii) in any other case (whether or not apparent insolvency has been constituted), not earlier than 6 months after the date of death, or
- (b) at any time by—
  - (i) a person entitled to be appointed as executor of the estate,
  - (ii) a trustee acting under a trust deed,
  - (iii) a temporary administrator, or
  - (iv) a member State liquidator appointed in main proceedings.
- (5) The presentation of a petition for sequestration bars the effect of any enactment or rule of law relating to the limitation of actions.
- (6) Where, before sequestration is awarded, it becomes apparent that a petitioning creditor was ineligible to petition, that person must withdraw, or as the case may be withdraw from, the petition; but another creditor may be sisted in that person's place.