



Bankruptcy (Scotland) Act 2016

2016 asp 21

PART 2

SEQUESTRATION: AWARD AND RECALL

Award of sequestration

- 23** **Circumstances in which sequestration is not to be awarded in pursuance of section 22(5)**
- (1) Sequestration must not be awarded in pursuance of section 22(5) if—
- (a) cause is shown why sequestration cannot competently be awarded,
 - (b) the debtor forthwith pays or satisfies, or produces written evidence of the payment or satisfaction of—
 - (i) the debt in respect of which the debtor became apparently insolvent, and
 - (ii) any other debt due by the debtor to the petitioner and to any creditor concurring in the petition.
- (2) Where the sheriff is satisfied that the debtor will, within 42 days beginning with the day the debtor appears before the sheriff, pay or satisfy the debts mentioned in subparagraphs (i) and (ii) of subsection (1)(b), the sheriff may continue the petition for no more than 42 days.
- (3) The sheriff may continue the petition for such period as the sheriff thinks fit if satisfied—
- (a) that a debt payment programme, under Part 1 of the 2002 Act, relating to the debts mentioned in sub-paragraphs (i) and (ii) of subsection (1)(b) has been applied for and has not yet been approved or rejected, or
 - (b) that such a debt payment programme will be applied for.

Commencement Information

II S. 23 in force at 30.11.2016 by [S.S.I. 2016/294](#), [reg. 2](#)

Changes to legislation:

Bankruptcy (Scotland) Act 2016, Section 23 is up to date with all changes known to be in force on or before 18 July 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\(2\)\(b\)](#)