



Bankruptcy (Scotland) Act 2016

2016 asp 21

PART 5

VESTING ETC.

Vesting

87 Dealings and circumstances of debtor after sequestration

- (1) The debtor must immediately notify the trustee in the sequestration—
 - (a) of any assets acquired by the debtor on a relevant date, or
 - (b) of any other substantial change in the debtor's financial circumstances.
- (2) A debtor who fails to comply with subsection (1) commits an offence.
- (3) A debtor who commits an offence under subsection (2) is liable on summary conviction—
 - (a) to a fine not exceeding level 5 on the standard scale,
 - (b) to imprisonment for a term not exceeding 3 months, or
 - (c) both to such fine and to such imprisonment.
- (4) Any dealing of, or with, the debtor and relating to the debtor's estate vested in the trustee under section 78 or 86 is of no effect in a question with the trustee.
- (5) But subsection (4) does not apply where the person seeking to uphold the dealing establishes that the trustee—
 - (a) has abandoned to the debtor the property to which the dealing relates,
 - (b) has expressly or impliedly authorised the dealing, or
 - (c) is otherwise personally barred from challenging the dealing.
- (6) Nor does subsection (4) apply where the person seeking to uphold the dealing establishes both—
 - (a) that the dealing is—
 - (i) the performance of an obligation undertaken before the date of sequestration by a person obliged to the debtor in the obligation,

Status: This is the original version (as it was originally enacted).

- (ii) the purchase from the debtor of goods for which the purchaser has given value to the debtor or is willing to give value to the trustee, or
 - (iii) one which satisfies the conditions mentioned in subsection (10), and
 - (b) that the person dealing with the debtor was, at the time when the dealing occurred, unaware of the sequestration and had at that time no reason to believe that the debtor's estate had been sequestrated or was the subject of sequestration proceedings.
- (7) Nor does subsection (4) apply where the dealing is a banking transaction entered into before the receipt by the bank of a notice under section 86(9) (whether or not the bank is aware of the sequestration).
- (8) Where the trustee has abandoned heritable property to the debtor, notice (in such form as may be prescribed) given to the debtor by the trustee is sufficient evidence that the property is vested in the debtor.
- (9) Where notice is given under subsection (8), the trustee is as soon as reasonably practicable after giving it to record a certified copy of it in the Register of Inhibitions.
- (10) The conditions are that—
 - (a) the dealing constitutes—
 - (i) the transfer of incorporeal moveable property, or
 - (ii) the creation, transfer, variation or extinguishing of a real right in heritable property,for which the person dealing with the debtor has given adequate consideration to the debtor or is willing to give adequate consideration to the trustee,
 - (b) the dealing requires the delivery of a deed, and
 - (c) the delivery occurs during the period beginning with the date of sequestration and ending 7 days after the day on which—
 - (i) the certified copy of the order of the sheriff granting warrant is recorded in the Register of Inhibitions under section 26(1)(a), or
 - (ii) the certified copy of the determination of AiB awarding sequestration is recorded in that register under section 26(2).