



Bankruptcy (Scotland) Act 2016

2016 asp 21

PART 2

SEQUESTRATION: AWARD AND RECALL

Award of sequestration

26 Registration of warrant or determination of debtor application

- (1) On the sheriff granting warrant under section 22(3) the sheriff clerk must forthwith send—
 - (a) a certified copy of the order granting the warrant to the Keeper of the Register of Inhibitions for recording in that register,
 - (b) a copy of that order to AiB, and
 - (c) where the debtor is taking part in a debt payment programme under Part 1 of the 2002 Act, a copy of that order to the DAS administrator (“DAS administrator” having the meaning given by regulation 2(1) of the Debt Arrangement Scheme (Scotland) Regulations 2011 ([S.S.I. 2011/141](#))).
- (2) On awarding sequestration on a debtor application AiB must forthwith send a certified copy of AiB’s determination of the application to the Keeper of the Register of Inhibitions for recording in that register.
- (3) Recording under subsection (1)(a) or (2) has the effect, as from the date of sequestration, of an inhibition and of a citation in an adjudication of the debtor’s heritable estate at the instance of the creditors who subsequently have claims in the sequestration accepted under section 126.
- (4) The effect mentioned in subsection (3) expires—
 - (a) on the recording by virtue of section 27(11)(a) of a certified copy of an order refusing to award sequestration or by virtue of section 30(9)(a) of a certified copy of an order recalling an award of sequestration,
 - (b) on the recording by virtue of section 18(7), 34(4) or 35(7) of a certified copy of a decision, or
 - (c) if the effect has not earlier expired by virtue of paragraph (a) or (b), at the end of 3 years beginning with the date of sequestration.

Status: This is the original version (as it was originally enacted).

- (5) But subsection (4)(c) is subject to subsections (6) and (7).
- (6) The trustee may if not discharged send a memorandum, in a form prescribed by act of sederunt, to the Keeper of the Register of Inhibitions for recording in that register before the expiry of—
 - (a) the 3 years mentioned in subsection (4)(c), or
 - (b) a period for which the effect mentioned in subsection (3) has been renewed by virtue of subsection (7).
- (7) The recording of a memorandum sent in accordance with subsection (6) renews the effect mentioned in subsection (3) for 3 years beginning with the expiry of—
 - (a) the 3 years mentioned in subsection (4)(c), or
 - (b) as the case may be, the period mentioned in subsection (6)(b).
- (8) The trustee may, if appointed or reappointed under section 152, send a memorandum in a form prescribed by act of sederunt to the Keeper of the Register of Inhibitions for recording in that register before the expiry of that appointment.
- (9) The recording of a memorandum sent in accordance with subsection (8) imposes the effect mentioned in subsection (3) for 3 years beginning with the day of notification in accordance with section 153(1).