
SCOTTISH STATUTORY INSTRUMENTS

2016 No. 313

Act of Sederunt (Sheriff Court Bankruptcy Rules) 2016

CHAPTER 1

CITATION, COMMENCEMENT AND INTERPRETATION ETC.

Citation, commencement and application, etc.

1.1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Sheriff Court Bankruptcy Rules) 2016.

(2) It comes into force on 30th November 2016.

(3) It applies to sequestrations as regards which the petition is presented, or the debtor application is made, on or after that date.

(4) A certified copy is to be inserted in the Books of Sederunt.

Interpretation

1.2.—(1) In this Act of Sederunt—

“the 2016 Act” means the Bankruptcy (Scotland) Act 2016;

“AiB sequestration” means the sequestration of a debtor’s estate by AiB following a debtor application made under the following provisions of the 2016 Act—

- (a) section 2(1)(a);
- (b) section 5(a);
- (c) section 6(3)(a);
- (d) section 6(4)(a);
- (e) section 6(4)(b); or
- (f) section 6(7)(a);

“Council Regulation” means Council Regulation (E.C.) No. 1346/2000 of 29th May 2000 on insolvency proceedings⁽¹⁾ as amended from time to time;

“Model Law on Cross-Border Insolvency” means the Model Law on cross-border insolvency as adopted by the United Nations Commission on International Trade Law on 30th May 1997 as set out in schedule 1 of the Cross-Border Insolvency Regulations 2006⁽²⁾;

“Register of Inhibitions” means the register mentioned in section 44(1) of the Conveyancing (Scotland) Act 1924⁽³⁾.

(1) O.J. L 160, 30.6.2000, p. 1.

(2) S.I. 2006/1030, to which there are amendments not relevant to this Act of Sederunt.

(3) 1924 c. 27. Section 44 was amended by the Conveyancing Amendment (Scotland) Act 1938 (c. 24), section 7(1)(b); the Bankruptcy (Scotland) Act 1985 (c. 66), section 75, schedule 7, paragraph 5, and schedule 8; the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73), section 59 and schedule 2, paragraph 6; the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), section 156; and the Land Registration etc. (Scotland) Act 2012 (asp 5), schedule 5, paragraph 9(4).

(2) In this Act of Sederunt, the following expressions have the meaning given by section 228(1) of the 2016 Act—

- “AiB”;
- “debtor application”;
- “establishment”;
- “main proceedings”;
- “member State liquidator”;
- “temporary administrator”.

Computation of periods of time

1.3. If any period of time specified in these Rules expires on a Saturday, Sunday or public or court holiday, it is extended to expire on the next day that the sheriff clerk’s office is open for civil business.

Forms

1.4.—(1) Where there is a reference in these Rules to a form, it is a reference to that form in schedule 1.

(2) Schedule 2 makes provision about forms relating to the Register of Inhibitions.

(3) Where these Rules require a form to be used, that form may be varied where the circumstances require it.

Sequestration process

1.5.—(1) The sheriff clerk must prepare a sequestration process when an initiating document mentioned in paragraph (2) is lodged.

(2) The initiating documents are—

- (a) a petition for sequestration;
- (b) a petition for recall of sequestration;
- (c) an application or remit under the 2016 Act;
- (d) an appeal under the 2016 Act.

(3) Any other document lodged with the sheriff clerk is to be placed in the sequestration process.

(4) Where a further initiating document relating to a sequestration is lodged—

- (a) paragraph (1) does not apply;
- (b) that document is to be placed in the existing sequestration process.