



Bankruptcy (Scotland) Act 1985 (repealed)

1985 CHAPTER 66

Award of sequestration and appointment and resignation of interim trustee

16 Petitions for recall of sequestration.

- (1) A petition for recall of an award of sequestration may be presented to the Court of Session by—
 - (a) the debtor, any creditor or any other person having an interest (notwithstanding that he was a petitioner, or concurred in the petition, for the sequestration);
 - (b) the interim trustee, the permanent trustee, or the Accountant in Bankruptcy.
- (2) The petitioner shall serve upon the debtor, any person who was a petitioner, or concurred in the petition, for the sequestration, the interim trustee or permanent trustee and the Accountant in Bankruptcy, a copy of the petition along with a notice stating that the recipient of the notice may lodge answers to the petition within 14 days of the service of the notice.
- (3) At the same time as service is made under subsection (2) above, the petitioner shall publish a notice in the Edinburgh Gazette stating that a petition has been presented under this section and that any person having an interest may lodge answers to the petition within 14 days of the publication of the notice.
- (4) Subject to section 41(1)(b) of this Act, a petition under this section may be presented—
 - (a) within 10 weeks after the date of [F1the award of]sequestration; but
 - (b) at any time if the petition is presented on any of the grounds mentioned in paragraphs (a) to (c) of section 17(1) of this Act.
- (5) Notwithstanding that a petition has been presented under this section, the proceedings in the sequestration shall continue (subject to section 17(6) of this Act) as if that petition had not been presented until the recall is granted.
- (6) Where—

Status: Point in time view as at 01/12/1993. This version of this provision has been superseded.

Changes to legislation: Bankruptcy (Scotland) Act 1985 (repealed), Section 16 is up to date with all changes known to be in force on or before 14 July 2024.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. (See end of Document for details)

- (a) a petitioner under this section; or
 - (b) a person who has lodged answers to the petition,
- withdraws or dies, any person entitled to present or, as the case may be, lodge answers to a petition under this section may be sisted in his place.

Textual Amendments

- F1** Words in s. 16(4)(a) inserted (1.4.1993, subject to savings in arts. 4, 5 of S.I. 1993/438) by 1993 c. 6, s. 11(3), **Sch. 1 para.5** (with s. 12(6)); S.I. 1993/438, **art.3**

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