



Bankruptcy (Scotland) Act 2016

2016 asp 21

PART 8

ADMINISTRATION OF ESTATE BY TRUSTEE

General

108 Taking possession of estate by trustee

- (1) The trustee in the sequestration must—
 - (a) for the purpose of recovering the estate of the debtor under section 50(1)(a), take possession as soon as may be after the trustee's appointment—
 - (i) of the debtor's whole estate so far as vesting in the trustee under sections 78 and 86, and
 - (ii) of any document in the debtor's possession or control relating to the debtor's assets or the debtor's business or financial affairs,
 - (b) make up and maintain an inventory and valuation of the estate, and
 - (c) forthwith thereafter send a copy of the inventory and valuation to AiB.
- (2) Paragraph (a) of subsection (1) is subject to section 113.
- (3) The trustee is entitled to have access to, and to make a copy of, any document relating to the assets or the business or financial affairs of the debtor—
 - (a) sent by or on behalf of the debtor to a third party, and
 - (b) in the third party's hands.
- (4) If a person obstructs the trustee in the trustee's exercise, or attempted exercise, of a power conferred by subsection (3), the sheriff may, on the trustee's application, order the person to cease obstructing the trustee.
- (5) The trustee may require delivery to the trustee of any title deed or other document of the debtor, even if a right of lien is claimed over it.
- (6) Subsection (5) is without prejudice to any preference of the holder of the lien.

Changes to legislation: Bankruptcy (Scotland) Act 2016, Section 108 is up to date with all changes known to be in force on or before 17 May 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) [View outstanding changes](#)

Commencement Information

II [S. 108](#) in force at 30.11.2016 by [S.S.I. 2016/294](#), [reg. 2](#)

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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\(2\)\(b\)](#)