



Bankruptcy (Scotland) Act 2016

2016 asp 21

PART 3

INITIAL STAGES OF SEQUESTRATION, STATUTORY MEETING AND TRUSTEE VOTE

Trustee vote

49 Trustee vote

- (1) At the statutory meeting the creditors are, at the conclusion of the proceedings under section 48(4), to proceed to a vote at which they are—
 - (a) to confirm the appointment of the trustee appointed under section 51 (referred to in this section and in Part 4 as the “original trustee”), or
 - (b) to elect another person as the trustee in the sequestration (referred to in this section and in that Part as the “replacement trustee”).
- (2) The vote is referred to in this Act as a “trustee vote”.
- (3) None of the persons listed in subsection (5) is eligible for election as replacement trustee.
- (4) No one who becomes a person so listed after being elected as replacement trustee is qualified to continue to act as trustee.
- (5) The persons are—
 - (a) the debtor,
 - (b) a person not qualified to act as an insolvency practitioner,
 - (c) a person who, though qualified to act as an insolvency practitioner, is not qualified to act as such in relation to the debtor,
 - (d) a person who holds an interest opposed to the general interests of the creditors,
 - (e) a person who has not given an undertaking, in writing, to act as trustee, and
 - (f) AiB.
- (6) None of the persons listed in subsection (7) is entitled to vote in the trustee vote.
- (7) The persons are—

Status: This is the original version (as it was originally enacted).

- (a) anyone who, other than by succession, acquires after the date of sequestration a debt due by the debtor, and
 - (b) any creditor to the extent that the creditor's debt is a postponed debt.
- (8) Where AiB is the original trustee, if no creditor entitled to vote in the trustee vote attends the statutory meeting or no replacement trustee is elected, AiB must—
 - (a) forthwith report the proceedings at the statutory meeting to the sheriff, and
 - (b) continue to act as the trustee.
- (9) Where AiB is not the original trustee, if no creditor entitled to vote in the trustee vote attends the statutory meeting or no replacement trustee is elected, the original trustee must—
 - (a) forthwith—
 - (i) notify AiB accordingly, and
 - (ii) report the proceedings at the statutory meeting to the sheriff, and
 - (b) continue to act as the trustee in the sequestration.