



Bankruptcy (Scotland) Act 2016

2016 asp 21

PART 4

TRUSTEES AND COMMISSIONERS

Trustees

51 Appointment of trustee

- (1) Subsection (2) applies where the sheriff awards sequestration of the debtor's estate and the petition for the sequestration—
 - (a) nominates a person to be the trustee in the sequestration,
 - (b) states that the person—
 - (i) is qualified to act as an insolvency practitioner, and
 - (ii) has given an undertaking to act as the trustee in the sequestration, and
 - (c) has, annexed to it, a copy of the undertaking.
- (2) The sheriff may, if—
 - (a) it appears to the sheriff that the person is so qualified and has given the undertaking, and
 - (b) no interim trustee is appointed under section 54(1),appoint the person to be the trustee in the sequestration.
- (3) Where the sheriff—
 - (a) awards sequestration of the debtor's estate,
 - (b) does not, under subsection (2), appoint a person to be the trustee in the sequestration, and
 - (c) no interim trustee is appointed under section 54(1),the sheriff must appoint AiB to be the trustee in the sequestration.
- (4) Subsections (5) and (7) apply where the sheriff—
 - (a) awards sequestration of the debtor's estate, and
 - (b) an interim trustee is appointed under section 54(1).
- (5) The sheriff may appoint—

Changes to legislation: Bankruptcy (Scotland) Act 2016, Section 51 is up to date with all changes known to be in force on or before 21 April 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

- (a) the interim trustee, or
 - (b) subject to subsection (6), such other person as may be nominated by the petitioner,
- to be the trustee in the sequestration.
- (6) A person nominated under subsection (5)(b) may be appointed to be the trustee in the sequestration only if—
- (a) it appears to the sheriff that the person is qualified to act as an insolvency practitioner and has given an undertaking to act as the trustee in the sequestration, and
 - (b) a copy of the undertaking has been lodged with the sheriff.
- (7) Where the sheriff does not, under subsection (5), appoint a person to be the trustee in the sequestration, the sheriff must appoint AiB to be the trustee in the sequestration.
- (8) Subsection (9) applies where AiB awards sequestration of the debtor's estate and the debtor application—
- (a) nominates a person to be the trustee in the sequestration,
 - (b) states that the person—
 - (i) is qualified to act as an insolvency practitioner, and
 - (ii) has given an undertaking to act as the trustee in the sequestration, and
 - (c) has, annexed to it, a copy of the undertaking.
- (9) AiB may, if it appears to AiB that the person is so qualified and has given that undertaking, appoint the person to be the trustee in the sequestration.
- (10) But subsection (9) is subject to subsection (11).
- (11) AiB is not to make an appointment under subsection (9) where—
- (a) the debtor application is made by a debtor to whom section 2(2) applies, and
 - (b) AiB awards sequestration of the debtor's estate.
- (12) Where AiB—
- (a) awards sequestration of the debtor's estate, and
 - (b) does not, under subsection (9), appoint a person to be the trustee in the sequestration,
- AiB is deemed to be appointed the trustee in the sequestration.
- (13) Where a trustee is appointed in a sequestration for which the petition is presented by a creditor, or by a trustee acting under a trust deed, the appointee must, as soon as practicable, notify the debtor of the appointment.
- (14) The trustee must, at the same time as notifying the debtor under subsection (13), send to the debtor for signature by the debtor a statement of undertakings in the form prescribed.

Commencement Information

II S. 51 in force at 30.11.2016 by S.S.I. 2016/294, reg. 2

Changes to legislation:

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