

BANKRUPTCY AND DEBT ADVICE (SCOTLAND) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Functions of sheriff and Accountant in Bankruptcy in sequestration

Section 29 – Replacement of trustee acting in more than one sequestration

75. This section provides that the existing section 28A of the 1985 Act should be replaced by two new sections, a new section 28A ('Replacement of trustee acting in more than one sequestration') and section 28B ('Determination etc. under section 28A: review'). This section is not relevant where AiB is the trustee as the role will not fall vacant.
76. Section 28A removes the requirement to petition the Court of Session for removal of the trustee from office and instead enables AiB to appoint someone to be trustee directly. Such an appointment may be made on the application of any person having an interest, or where AiB so proposes. Interested persons must be notified and given the opportunity to make representations. Subsection 28A(12) places a duty on AiB to notify its decision to the former trustee, the debtor, any creditor known to AiB and each sheriff who awarded sequestration or to whom the sequestration was transferred.
77. The new section 28B provides that those listed in section 28A(12)(a) and (b) and (13)(a) (i.e. the former trustee, the debtor, every creditor known to the trustee) will be able to ask AiB to review its decision within 14 days of making and notifying the decision and, if they are not satisfied with the result of AiB's review, to appeal the result by a single petition to the Court of Session, if the appeal relates to two or more sequestrations that were awarded in different sheriffdoms or, otherwise, to the sheriff with jurisdiction.