



Bankruptcy (Scotland) Act 2016

2016 asp 21

PART 4

TRUSTEES AND COMMISSIONERS

Resignation or death of trustee

69 Resignation or death of trustee

- (1) The trustee in the sequestration (in this section referred to as “T”) may apply to AiB for authority to resign office and AiB must grant the application where satisfied that—
 - (a) T is unable to act (whether by, under or by virtue of a provision of this Act or from any other cause), or
 - (b) T's conduct has been such that T should no longer continue to act in the sequestration.
- (2) AiB may make the granting of an application under subsection (1) subject—
 - (a) to the election of a new trustee, and
 - (b) to such other conditions as AiB thinks appropriate in all the circumstances of the case.
- (3) Where AiB grants an application under subsection (1), then—
 - (a) except where paragraph (b) applies, the commissioners, or if there are no commissioners AiB, must call a meeting of the creditors, to be held within 28 days after T resigns, for the election by the creditors of a new trustee, and
 - (b) if the application is granted subject to the election of a new trustee, T must call a meeting of the creditors, to be held within 28 days after the granting of the application, for such an election.
- (4) Where the commissioners become, or if there are no commissioners AiB becomes, aware that T has died, they or as the case may be AiB are, as soon as practicable after becoming so aware, to call a meeting of creditors for the election by the creditors of a new trustee.
- (5) The preceding provisions of this Part in relation to the election of a replacement trustee and the appointment of that trustee also apply, subject to any necessary modifications,

Changes to legislation: Bankruptcy (Scotland) Act 2016, Cross Heading: Resignation or death of trustee 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

- in relation to the election and appointment of a new trustee in pursuance of subsections (1) to (3) or subsection (4).
- (6) Where no new trustee is elected in pursuance of subsection (3) or (4), AiB may appoint as the new trustee in the sequestration—
- (a) a person who applies to AiB within 14 days beginning with the day of the meeting arranged under subsection (3) or (4), or
 - (b) any other person as may be determined by AiB and who consents to the appointment.
- (7) A person may not be appointed under subsection (6) if the person is ineligible, by virtue of section 49(3), for election as a replacement trustee.
- (8) If, after the expiry of the days mentioned in subsection (6)(a), AiB determines that no person is to be appointed under subsection (6), AiB is deemed to be the new trustee in the sequestration.
- (9) The new trustee (in this subsection and in subsection (11) referred to as “NT”) may require—
- (a) delivery to NT of all documents relating to the sequestration and in the possession of T or T's representatives (except that, in the case of T's accounts, NT is entitled to delivery only of a copy),
 - (b) T or T's representatives to submit T's accounts for audit to the commissioners or, if there are no commissioners, to AiB.
- (10) The commissioners are, or if there are no commissioners AiB is, to issue a determination fixing the amount of the outlays and remuneration payable to T or T's representatives in accordance with section 133.
- (11) T or T's representatives, NT, the debtor or any creditor may within 14 days after a determination under subsection (10) is issued—
- (a) by the commissioners, appeal against it to AiB,
 - (b) by AiB, appeal against it to the sheriff.
- (12) A decision of AiB under subsection (11)(a) is appealable to the sheriff.
- (13) The decision of the sheriff on an appeal under subsection (11)(b) or (12) is final.

Commencement Information

II S. 69 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\(2\)\(b\)](#)