



Bankruptcy (Scotland) Act 2016

2016 asp 21

PART 4

TRUSTEES AND COMMISSIONERS

Removal of trustee and appointment of new trustee

70 Removal of trustee other than where trustee is unable to act or should no longer continue to act: general

- (1) The trustee in the sequestration (in this section and in sections 71 to 73 referred to as “T”) may be removed from office—
 - (a) by the creditors at a meeting called for the purpose if they also forthwith elect a new trustee, or
 - (b) by order made by AiB if AiB is satisfied that, on the basis of circumstances other than those mentioned in section 72(2), there are reasons to remove T from office.
- (2) An order removing T in accordance with subsection (1)(b) may be made—
 - (a) on the application of—
 - (i) the commissioners, or
 - (ii) a person representing not less than $\frac{1}{4}$ in value of the creditors, or
 - (b) in any other case where AiB is satisfied as mentioned in that subsection.
- (3) “Creditors”, in subsection (1)(a), does not include—
 - (a) anyone who, other than by succession, acquires after the date of sequestration a debt due by the debtor, or
 - (b) any creditor to the extent that the creditor’s debt is a postponed debt.
- (4) AiB must—
 - (a) order any application by a person mentioned in subsection (2)(a) to be served on T,
 - (b) enter particulars of the application in the register of insolvencies, and
 - (c) before deciding whether or not to make an order under subsection (1)(b), give T the opportunity to make representations.

Changes to legislation: Bankruptcy (Scotland) Act 2016, Section 70 is up to date with all changes known to be in force on or before 17 December 2023. 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](#)

(5) AiB may—

- (a) in ordering, or
- (b) instead of ordering,

the removal of T from office under subsection (1)(b), make such further or other order as AiB thinks fit.

(6) This section and sections 71 to 75 do not apply where AiB is the trustee in the sequestration.

(7) This section is without prejudice to section 200(4).

Commencement Information

II [S. 70](#) 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\(2\)\(b\)](#)