

Changes to legislation: Bankruptcy (Scotland) Act 2016, SCHEDULE 6 is up to date with all changes known to be in force on or before 17 January 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

SCHEDULE 6
(introduced by section 217)
MEETINGS OF CREDITORS AND COMMISSIONERS

PART 1

MEETINGS OF CREDITORS OTHER THAN THE STATUTORY MEETING

Calling of meeting

- 1 The trustee in the sequestration must call a meeting of creditors if required to do so—
- (a) by order of the sheriff,
 - (b) by 1/10 in number or 1/3 in value of the creditors,
 - (c) by a commissioner, or
 - (d) by AiB.

Commencement Information

I1 Sch. 6 para. 1 in force at 30.11.2016 by [S.S.I. 2016/294](#), **reg. 2**

- 2 Any such meeting must be held not later than 28 days after—
- (a) the issuing of the order under paragraph 1(a), or
 - (b) the receipt by the trustee of the requirement under paragraph 1(b), (c) or (d).

Commencement Information

I2 Sch. 6 para. 2 in force at 30.11.2016 by [S.S.I. 2016/294](#), **reg. 2**

- 3 The trustee, or a commissioner who has given notice to the trustee, may at any time call a meeting of creditors.

Commencement Information

I3 Sch. 6 para. 3 in force at 30.11.2016 by [S.S.I. 2016/294](#), **reg. 2**

- 4 The trustee, calling a meeting under paragraph 1 or 3, or a commissioner, calling a meeting under paragraph 3, is no fewer than 7 days before the date fixed for the meeting to notify—
- (a) every creditor known to the trustee or, as the case may be, to the commissioner, and
 - (b) AiB,
- of the date, time and place fixed for the holding of the meeting and of the meeting's purpose.

Commencement Information

I4 Sch. 6 para. 4 in force at 30.11.2016 by [S.S.I. 2016/294](#), **reg. 2**

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- 5 Where—
- (a) a requirement has been made under paragraph 1, but
 - (b) no meeting has been called by the trustee,
- AiB may, of AiB's own accord or on the application of any creditor, call a meeting of creditors.

Commencement Information

I5 Sch. 6 para. 5 in force at 30.11.2016 by [S.S.I. 2016/294, reg. 2](#)

- 6 AiB, calling a meeting under paragraph 5, is no fewer than 7 days before the date fixed for the meeting to take reasonable steps to notify the creditors of the date, time and place fixed for the holding of the meeting and of the meeting's purpose.

Commencement Information

I6 Sch. 6 para. 6 in force at 30.11.2016 by [S.S.I. 2016/294, reg. 2](#)

- 7 It is not necessary to notify under paragraph 4 or 6 any creditor whose accepted claim is less than £50 or such sum as may be prescribed, unless the creditor has in writing requested such notification.

Commencement Information

I7 Sch. 6 para. 7 in force at 30.11.2016 by [S.S.I. 2016/294, reg. 2](#)

Role of trustee at meeting

- 8 At the commencement of a meeting the trustee is to be the person chairing the meeting and as such is, after carrying out the trustee's duties under section 126(1)—
- (a) to invite the creditors to elect one of their number to chair the meeting in the trustee's place, and
 - (b) to preside over the election.

Commencement Information

I8 Sch. 6 para. 8 in force at 30.11.2016 by [S.S.I. 2016/294, reg. 2](#)

- 9 If no person is elected in pursuance of paragraph 8, the trustee must chair the meeting throughout.

Commencement Information

I9 Sch. 6 para. 9 in force at 30.11.2016 by [S.S.I. 2016/294, reg. 2](#)

- 10 The trustee is to arrange for a record to be made of the proceedings at the meeting.

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Commencement Information

I10 Sch. 6 para. 10 in force at 30.11.2016 by [S.S.I. 2016/294](#), [reg. 2](#)

Appeals

- 11 The trustee, a creditor or any other person having an interest may, within 14 days after the date of a meeting called under paragraph 4 or 6, appeal to the sheriff against a resolution of the creditors at the meeting.

Commencement Information

I11 Sch. 6 para. 11 in force at 30.11.2016 by [S.S.I. 2016/294](#), [reg. 2](#)

PART 2

ALL MEETINGS OF CREDITORS

Validity of proceedings

- 12 No proceedings at a meeting are invalidated by reason only that a notice or other document relating to the calling of the meeting, being a notice required to be sent or given under a provision of this Act, has not been received by, or come to the attention of, any creditor before the meeting.

Commencement Information

I12 Sch. 6 para. 12 in force at 30.11.2016 by [S.S.I. 2016/294](#), [reg. 2](#)

[^{F1}Holding of meeting]

Textual Amendments

F1 [Sch. 6 paras. 13, 13A](#) and cross-heading substituted for sch. 6 para. 13 and cross-heading (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), [ss. 21\(2\)\(a\)](#), 59(1)

- [^{F1}13 Every meeting must be held either—
- (a) in such place (whether or not in the sheriffdom) as is, in the opinion of the person calling the meeting, the most convenient for the majority of the creditors, or
 - (b) by such electronic means as would, in the opinion of the person calling the meeting, be most convenient to allow the majority of the creditors to participate in the meeting without being together in the same place.]

Commencement Information

I13 Sch. 6 para. 13 in force at 30.11.2016 by [S.S.I. 2016/294](#), [reg. 2](#)

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- [^{F1}13A Where a meeting is to be held in pursuance of paragraph 13(b), the references in paragraphs 4 and 6 to the place fixed for the holding of the meeting are to be read as references to the electronic means by which attendees are to be able to attend the meeting without being together in the same place.]

Mandatories

- 14 A creditor may authorise in writing a person to represent the creditor at a meeting.

Commencement Information

I14 Sch. 6 para. 14 in force at 30.11.2016 by [S.S.I. 2016/294](#), [reg. 2](#)

- 15 A creditor must lodge with the trustee, before the commencement of the meeting, any authorisation given under paragraph 14.

Commencement Information

I15 Sch. 6 para. 15 in force at 30.11.2016 by [S.S.I. 2016/294](#), [reg. 2](#)

- 16 Any reference in paragraph 8, or in the following provisions of this Part, to a creditor includes a reference to a person authorised under paragraph 14 by a creditor.

Commencement Information

I16 Sch. 6 para. 16 in force at 30.11.2016 by [S.S.I. 2016/294](#), [reg. 2](#)

Quorum

- 17 The quorum at any meeting is one creditor.

Commencement Information

I17 Sch. 6 para. 17 in force at 30.11.2016 by [S.S.I. 2016/294](#), [reg. 2](#)

Voting at meeting

- 18 Any question at a meeting is to be determined by a majority in value of the creditors who vote on that question.

Commencement Information

I18 Sch. 6 para. 18 in force at 30.11.2016 by [S.S.I. 2016/294](#), [reg. 2](#)

Objections by creditors

- 19 At any meeting the person chairing it may allow or disallow any objection by a creditor, other than (if the person chairing the meeting is not the trustee) an objection relating to a creditor's claim.

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Commencement Information

I19 Sch. 6 para. 19 in force at 30.11.2016 by [S.S.I. 2016/294](#), [reg. 2](#)

- 20 A person aggrieved by the determination of the person chairing the meeting in respect of an objection may appeal to the sheriff against the determination.

Commencement Information

I20 Sch. 6 para. 20 in force at 30.11.2016 by [S.S.I. 2016/294](#), [reg. 2](#)

- 21 If the person chairing the meeting is in doubt as to whether to allow or disallow an objection, the meeting must proceed as if no objection had been made, except that for the purposes of appeal the objection is to be deemed to have been disallowed.

Commencement Information

I21 Sch. 6 para. 21 in force at 30.11.2016 by [S.S.I. 2016/294](#), [reg. 2](#)

Adjournment of meeting

- 22 If no creditor has appeared at a meeting by half an hour after the time appointed for its commencement, the person chairing the meeting may adjourn it to such other day as that person may appoint, being a day no fewer than 7, nor more than 21, days after that on which the meeting is adjourned.

Commencement Information

I22 Sch. 6 para. 22 in force at 30.11.2016 by [S.S.I. 2016/294](#), [reg. 2](#)

- 23 The person chairing the meeting may, with the consent of a majority in value of the creditors who vote on a resolution to adjourn a meeting, adjourn the meeting.

Commencement Information

I23 Sch. 6 para. 23 in force at 30.11.2016 by [S.S.I. 2016/294](#), [reg. 2](#)

- 24 Any adjourned meeting must be held at the same time [^{F2}, and at the same place or by the same electronic means,] as the original meeting, unless [^{F3}the resolution specifies otherwise].

Textual Amendments

F2 Words in [sch. 6 para. 24](#) substituted (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), [ss. 21\(2\)\(b\)\(i\)](#), 59(1)

F3 Words in [sch. 6 para. 24](#) substituted (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), [ss. 21\(2\)\(b\)\(ii\)](#), 59(1)

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Commencement Information

I24 Sch. 6 para. 24 in force at 30.11.2016 by [S.S.I. 2016/294](#), **reg. 2**

Minutes of meeting

- 25 The minutes of every meeting must be signed by the person who chaired the meeting and within 14 days after the meeting must be sent to AiB.

Commencement Information

I25 Sch. 6 para. 25 in force at 30.11.2016 by [S.S.I. 2016/294](#), **reg. 2**

PART 3

MEETINGS OF COMMISSIONERS

- 26 The trustee—
- (a) may call a meeting of commissioners at any time, and
 - (b) must call such a meeting—
 - (i) on being required to do so by order of the sheriff, or
 - (ii) on being requested to do so by AiB or by any commissioner.

Commencement Information

I26 Sch. 6 para. 26 in force at 30.11.2016 by [S.S.I. 2016/294](#), **reg. 2**

- 27 If the trustee fails to call a meeting of commissioners within 14 days after being required or requested to do so under paragraph 26, a commissioner may call a meeting of commissioners.

Commencement Information

I27 Sch. 6 para. 27 in force at 30.11.2016 by [S.S.I. 2016/294](#), **reg. 2**

- 28 The trustee must give the commissioners at least 7 days' notice of a meeting called by the trustee unless the commissioners decide that they do not require such notice.

Commencement Information

I28 Sch. 6 para. 28 in force at 30.11.2016 by [S.S.I. 2016/294](#), **reg. 2**

- 29 The trustee is to act as clerk at a meeting of commissioners.

Commencement Information

I29 Sch. 6 para. 29 in force at 30.11.2016 by [S.S.I. 2016/294](#), **reg. 2**

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- 30 If the commissioners are considering the performance of the functions of the trustee under any provision of this Act, the trustee must withdraw from the meeting if requested to do so by the commissioners and in such a case a commissioner must—
- (a) act as clerk, and
 - (b) transmit a record of the deliberations of the commissioners to the trustee.

Commencement Information

I30 Sch. 6 para. 30 in force at 30.11.2016 by [S.S.I. 2016/294](#), [reg. 2](#)

- 31 The quorum at a meeting of commissioners is one commissioner and the commissioners may act by a majority of the commissioners present at the meeting.

Commencement Information

I31 Sch. 6 para. 31 in force at 30.11.2016 by [S.S.I. 2016/294](#), [reg. 2](#)

- 32 Any matter may be agreed by the commissioners without a meeting if such agreement—
- (a) is unanimous, and
 - (b) is subsequently recorded in a minute signed by the commissioners.

Commencement Information

I32 Sch. 6 para. 32 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\(2\)\(b\)](#)