



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—

Status: This is the original version (as it was originally enacted).

- (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.