



Bankruptcy (Scotland) Act 1985 (repealed)

1985 CHAPTER 66

[^{F1}Statutory meeting of creditors and trustee vote]

Textual Amendments

- F1** Cross-heading preceding s. 21 substituted (S.) (1.4.2008) by virtue of [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 36, 227(3), [Sch. 1 para. 19](#) (with s. 223); S.S.I. 2008/115, [art. 3\(1\)\(i\)](#) (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))

21 Calling of statutory meeting.

^{F2}

Textual Amendments

- F2** S. 21 repealed (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 11(1), 227(3) (with s. 223); S.S.I. 2008/115, [art. 3\(2\)\(3\)](#), [Sch. 2](#) (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))

^{F4}21A [^{F3}Calling of statutory meeting]

- (1) Subject to subsections (5) and (6) below, ^{F5} . . . the statutory meeting may be held at such time and place as the ^{F6} . . . trustee may determine.
- (2) Not later than 60 days after the date [^{F7}on which sequestration is awarded] , or such longer period as the sheriff may on cause shown allow, the ^{F8} . . . trustee shall give notice to every creditor known to him of whether he intends to call the statutory meeting.
- (3) A notice given under subsection (2) above shall—
 - (a) be accompanied by a copy of the ^{F8} . . . trustee's statement of the debtor's affairs; and

Status: Point in time view as at 01/04/2008.

Changes to legislation: Bankruptcy (Scotland) Act 1985 (repealed), Cross Heading: Statutory meeting of creditors and trustee vote is up to date with all changes known to be in force on or before 14 July 2024.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)

- (b) where the ^{F8} . . . trustee is notifying his intention not to hold the statutory meeting, inform creditors—
- (i) of the effect of subsections (4) and (5) below; ^{F9} . . .
 - (ii) ^{F9}
- (4) Within 7 days of the giving of notice under subsection (2) above, any creditor may request the ^{F8} . . . trustee to call the statutory meeting.
- (5) Where a request or requests under subsection (4) above are made by not less than one quarter in value of the debtor's creditors, the ^{F8} . . . trustee shall call the statutory meeting not later than 28 days, or such other period as the sheriff may on cause shown allow, after the giving of notice under subsection (2) above.
- (6) Where the ^{F8} . . . trustee gives notice under subsection (2) above that he intends to call the statutory meeting, such meeting shall be called not later than 28 days after the giving of such notice.
- (7) Not less than 7 days before the date fixed for the statutory meeting, the ^{F8} . . . trustee shall notify every creditor known to him of the date, time and place of the meeting, and shall in such notice invite the submission of such claims as have not already been submitted and inform them of his duties under section 23(3) of this Act.
- (8) The creditors may continue the statutory meeting to a date not later than 7 days after the end of the period mentioned in subsection (6) above or such longer period as the sheriff may on cause shown allow.
- (9) ^{F10}]

Textual Amendments

- F3** S. 21A heading substituted (1.4.2008) by virtue of [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), [ss. 11\(2\)\(b\)](#), [227\(3\)](#) (with s. 223); S.S.I. 2008/115, [art. 3\(1\)\(a\)](#) (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F4** Ss. 21A, 21B inserted (1.4.1993, subject to savings in arts. 4, 5 of S.I. 1993/438) by 1993 c. 6, [s.5](#) (with s. 12(6)); S.I. 1993/438, [art.3](#)
- F5** Words in s. 21A(1) repealed (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#) {[ss. 11\(2\)\(a\)](#)}, [227\(3\)](#) (with s. 223); S.S.I. 2008/115, [art. 3\(1\)\(a\)](#) (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F6** Word in s. 21A(1) repealed (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), [ss. 226](#), [227\(3\)](#), [Sch. 6 Pt. 1](#) (with s. 223); S.S.I. 2008/115, [art. 3\(2\)\(3\)](#) (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F7** Words in s. 21A(2) substituted (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), [ss. 36](#), [227\(3\)](#), [Sch. 1 para. 20](#) (with s. 223); S.S.I. 2008/115, [art. 3\(1\)\(i\)](#) (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F8** Words in s. 21A(2)-(7) repealed (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), [ss. 226](#), [227\(3\)](#), [Sch. 6 Pt. 1](#) (with s. 223); S.S.I. 2008/115, [art. 3\(2\)\(3\)](#), [Sch. 2](#) (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F9** S. 21A(3)(b)(ii) and preceding word repealed (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), [ss. 28\(2\)](#), [227\(3\)](#) (with s. 223); S.S.I. 2008/115, [art. 3\(1\)\(a\)](#) (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F10** S. 21A(9) repealed (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), [ss. 226](#), [227\(3\)](#), [Sch. 6 Pt. 1](#) (with s. 223); S.S.I. 2008/115, [art. 3\(2\)\(3\)](#), [Sch. 2](#) (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))

Status: Point in time view as at 01/04/2008.

Changes to legislation: Bankruptcy (Scotland) Act 1985 (repealed), Cross Heading: Statutory meeting of creditors and trustee vote is up to date with all changes known to be in force on or before 14 July 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)

21B ^{F11}Procedure where no statutory meeting called.

- (1) Where the ^{F12} . . . trustee does not call the statutory meeting and the period mentioned in section 21A(4) of this Act has expired, he shall—
- (a) forthwith make a report to the [^{F13}Accountant in Bankruptcy] on the circumstances of the sequestration; ^{F14} . . .
 - (b) ^{F14}

[^{F15}(1A) This section does not apply in any case where the Accountant in Bankruptcy is the trustee.]

- (2) ^{F16}

Textual Amendments

- F11** Ss. 21A, 21B inserted (1.4.1993, subject to savings in arts. 4, 5 of S.I. 1993/438) by 1993 c. 6, s.5 (with s. 12(6)); S.I. 1993/438, **art.3**
- F12** Word in s. 21B repealed (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 226, 227(3), **Sch. 6 Pt. 1** (with s. 223); S.S.I. 2008/115, **art. 3(2)(3)**, Sch. 2 (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F13** Words in s. 21B(1)(a) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 21(a)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F14** S. 21B(1)(b) and preceding word repealed (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 226, 227(3), **Sch. 6 Pt. 1** (with s. 223); S.S.I. 2008/115, **art. 3(2)(3)**, Sch. 2 (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F15** S. 21B(1A) inserted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 21(b)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F16** S. 21B(2) repealed (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 226, 227(3), **Sch. 6 Pt. 1** (with s. 223); S.S.I. 2008/115, **art. 3(2)(3)**, Sch. 2 (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))

22 Submission of claims for voting purposes at statutory meeting.

- (1) For the purposes of voting at the statutory meeting, a creditor shall submit a claim in accordance with this section to the ^{F17} . . . trustee at or before the meeting.
- (2) A creditor shall submit a claim under this section by producing to the ^{F17} . . . trustee—
- (a) a statement of claim in the prescribed form; and
 - (b) an account or voucher (according to the nature of the debt) which constitutes *prima facie* evidence of the debt:

Provided that the ^{F17} . . . trustee may dispense with any requirement under this subsection in respect of any debt or any class of debt.

- (3) Where a creditor neither resides nor has a place of business in the United Kingdom, the ^{F17} . . . trustee—
- (a) shall, if he knows where the creditor resides or has a place of business and if no notification has been given to that creditor under section [^{F18}21A(2)] of this Act, write to him informing him that he may submit a claim under this section;
 - (b) may allow the creditor to submit an informal claim in writing.

Status: Point in time view as at 01/04/2008.

Changes to legislation: Bankruptcy (Scotland) Act 1985 (repealed), Cross Heading: Statutory meeting of creditors and trustee vote is up to date with all changes known to be in force on or before 14 July 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)

- (4) A creditor who has produced a statement of claim in accordance with subsection (2) above may at any time before the statutory meeting produce in place of that statement of claim another such statement of claim specifying a different amount for his claim.
- (5) If a creditor produces under this section a statement of claim, account, voucher or other evidence which is false—
- (a) the creditor shall be guilty of an offence unless he shows that he neither knew nor had reason to believe that the statement of claim, account, voucher or other evidence was false;
 - (b) the debtor shall be guilty of an offence if he—
 - (i) knew or became aware that the statement of claim, account, voucher or other evidence was false; and
 - (ii) failed as soon as practicable after acquiring such knowledge to report it to the ^{F17} . . . trustee ^{F17}
- (6) A creditor may, in such circumstances as may be prescribed, state the amount of his claim in foreign currency.
- (7) The ^{F17} . . . trustee shall, on production of any document to him under this section, initial the document and keep a record of it stating the date when it was produced to him, and, if requested by the sender, shall return it (if it is not a statement of claim) to him.
- (8) The submission of a claim under this section shall bar the effect of any enactment or rule of law relating to the limitation of actions in any part of the United Kingdom.
- (9) Schedule 1 to this Act shall have effect for determining the amount in respect of which a creditor shall be entitled to claim.
- (10) A person convicted of an offence under subsection (5) above shall be liable—
- (a) on summary conviction to a fine not exceeding the statutory maximum or—
 - (i) to imprisonment for a term not exceeding 3 months; or
 - (ii) if he has previously been convicted of an offence inferring dishonest appropriation of property or an attempt at such appropriation, to imprisonment for a term not exceeding 6 months,
 or (in the case of either sub-paragraph) to both such fine and such imprisonment; or
 - (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding 2 years or to both.

Textual Amendments

F17 Words in s. 22 repealed (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 226, 227(3), [Sch. 6 Pt. 1](#) (with s. 223); S.S.I. 2008/115, [art. 3\(2\)\(3\)](#), Sch. 2 (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))

F18 Words in s. 22(3)(a) substituted (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 36, 227(3), [Sch. 1 para. 22](#) (with s. 223); S.S.I. 2008/115, [art. 3\(1\)\(i\)](#) (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))

Modifications etc. (not altering text)

C1 S. 22 restricted (S.) (17.12.2001) by [2001 asp 13](#), s. 20, [Sch. 6 para. 8\(2\)](#) (with s. 29); S.S.I. 2001/456, [art. 2](#)

Status: Point in time view as at 01/04/2008.

Changes to legislation: Bankruptcy (Scotland) Act 1985 (repealed), Cross Heading: Statutory meeting of creditors and trustee vote is up to date with all changes known to be in force on or before 14 July 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)

- C2 S. 22(5)(10) applied (with modifications) by S.I. 1986/1915, Rules 4.16(1)(a), 7.9(4) and by Rule 2.41(2) (as substituted (15.9.2003) by The Insolvency (Scotland) Amendment Rules 2003 (S.I. 2003/2111), Rule 3, Sch. 1 Pt. 1)
- C3 S. 22(5)(10) applied (with modifications) (14.11.2011) by The Investment Bank Special Administration (Scotland) Rules 2011 (S. I. 2011/2262), rules 2, 127
- C4 S. 22(8) applied with modifications by S.I. 1986/1915, Rule 4.76.

23 [F19]Proceedings at statutory meeting before trustee vote]

- (1) At the commencement of the statutory meeting, the chairman shall be the ^{F20} . . . trustee who as chairman shall—
 - (a) for the purposes of subsection (2) below, accept or reject in whole or in part the claim of each creditor, and, if the amount of a claim is stated in foreign currency, he shall convert that amount into sterling, in such manner as may be prescribed, at the rate of exchange prevailing at the close of business on the date of sequestration;
 - (b) invite the creditors thereupon to elect one of their number as chairman in his place and shall preside over the election:

Provided that if a chairman is not elected in pursuance of this paragraph, the ^{F20} . . . trustee shall remain the chairman throughout the meeting; and

- (c) arrange for a record to be made of the proceedings at the meeting.
- (2) The acceptance of a claim in whole or in part under subsection (1) above shall, subject to section 24(3) of this Act, determine the entitlement of a creditor to vote at the statutory meeting.
- (3) On the conclusion of the proceedings under subsection (1) above, the ^{F20} . . . trustee—
 - [^{F21}(a) shall make available for inspection—
 - (i) the statement of assets and liabilities; and
 - (ii) his statement of the debtor’s affairs prepared under section 20(1) of this Act;]
 - (b) shall answer to the best of his ability any questions, and shall consider any representations, put to him by the creditors relating to the debtor’s assets, business or financial affairs or his conduct in relation thereto;
 - (c) shall, after considering any such representations as are mentioned in paragraph (b) above, indicate whether, in his opinion, the debtor’s assets are unlikely to be sufficient as mentioned in section 20(1) of this Act; and
 - [^{F21}(d) shall determine whether it is necessary to revise his statement of the debtor’s affairs and, if he determines that it is necessary to revise the statement, he shall do so either at, or as soon as possible after, the statutory meeting.]

^{F22}(4)

[^{F21}(5) Where the ^{F20} . . . trustee has revised his statement of the debtor’s affairs, he shall, as soon as possible after the statutory meeting, send a copy of the revised statement to every creditor known to him.]

Status: Point in time view as at 01/04/2008.

Changes to legislation: Bankruptcy (Scotland) Act 1985 (repealed), Cross Heading: Statutory meeting of creditors and trustee vote is up to date with all changes known to be in force on or before 14 July 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)

Textual Amendments

- F19** S. 23 heading substituted (1.4.2008) by virtue of the [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), [ss. 11\(3\)](#), [227\(3\)](#) (with s. 223); S.S.I. 2008/115, [art. 3\(1\)\(a\)](#) (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F20** Words in s. 23 repealed (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), [ss. 226](#), [227\(3\)](#), [Sch. 6 Pt. 1](#) (with s. 223); S.S.I. 2008/115, [art. 3\(2\)\(3\)](#), [Sch. 2](#) (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F21** S. 23(3)(a) substituted (1.4.1993, subject to savings in arts. 4, 5 of S.I. 1993/438) by 1993 c. 6, s. 11(3), [Sch. 1 para. 11\(2\)\(a\)](#) (with s. 12(6)); S.I. 1993/438, [art.3](#)
S. 23(3)(d) substituted (1.4.1993, subject to savings in arts. 4, 5 of S.I. 1993/438) by 1993 c. 6, s. 11(3), [Sch. 1 para. 11\(2\)\(b\)](#) (with s. 12(6)); S.I. 1993/438, [art.3](#)
S. 23(5) substituted (1.4.1993, subject to savings in arts. 4, 5 of S.I. 1993/438) by 1993 c. 6, s. 11(3), [Sch. 1 para. 11\(3\)](#) (with s. 12(6)); S.I. 1993/438, [art.3](#)
- F22** S. 23(4) repealed (1.4.1993, subject to savings in arts. 4, 5 of S.I. 1993/438) by 1993 c. 6, s. 11(4), [Sch.2](#) (with s. 12(6)); S.I. 1993/438, [art.3](#)

[23A ^{F23}Summary administration.

^{F24}

Textual Amendments

- F23** S. 23A inserted (1.4.1993, subject to savings in arts. 4, 5 of S.I. 1993/438) by 1993 c. 6, [s.6](#) (with s. 12(6)); S.I. 1993/438, [art.3](#)
- F24** s. 23A repealed (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), [ss. 28\(3\)](#), [227\(3\)](#) (with s. 223); S.S.I. 2008/115, [art. 3\(1\)\(a\)](#) (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))

24 [^{F25}Trustee vote]

[^{F26}(1) At the statutory meeting, the creditors shall, at the conclusion of the proceedings under section 23(3) of this Act, proceed to [^{F27}a vote at which they shall—

- (a) confirm the appointment of the trustee appointed under section 2 of this Act (referred to in this section and in sections 25 to 27 of this Act as the “original trustee”); or
- (b) elect another person as the trustee in the sequestration (referred to in this section and in sections 13 and 25 to 29 of this Act as the “replacement trustee”),

such a vote being referred to in this Act as a “trustee vote”] .]

(2) None of the following persons shall be eligible for election as [^{F28}replacement] trustee, nor shall anyone who becomes such a person after having been elected as [^{F28}replacement] trustee be qualified to continue to act as ^{F29} . . . trustee—

- (a) the debtor;
- (b) a person who is not qualified to act as an insolvency practitioner or who, though qualified to act as an insolvency practitioner, is not qualified to act as such in relation to the debtor;
- (c) a person who holds an interest opposed to the general interests of the creditors;
- (d) ^{F30}

Status: Point in time view as at 01/04/2008.

Changes to legislation: Bankruptcy (Scotland) Act 1985 (repealed), Cross Heading: Statutory meeting of creditors and trustee vote is up to date with all changes known to be in force on or before 14 July 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)

- ^{F31}(e) a person who has not given an undertaking, in writing, to act as ^{F29} . . . trustee;
- (f) the Accountant in Bankruptcy.]

- (3) The following persons shall not be entitled to vote in the [^{F32}trustee vote]—
 - (a) anyone acquiring a debt due by the debtor, otherwise than by succession, after the date of sequestration;
 - (b) any creditor to the extent that his debt is a postponed debt.

- ^{F31}(3A) In any case where the Accountant in Bankruptcy is the [^{F33}original] trustee, if—
 - (a) no creditor entitled to vote in the [^{F34}trustee vote] attends the statutory meeting; or
 - (b) no [^{F35}replacement] trustee is elected,
 the Accountant in Bankruptcy shall forthwith report the proceedings at the statutory meeting to the sheriff and [^{F36}shall continue to act as the trustee] .

(3B) ^{F37}]

- (4) [^{F31}In any case where the Accountant in Bankruptcy is not the [^{F38}original] trustee,] if no creditor entitled to vote in the [^{F39}trustee vote] attends the statutory meeting or if no [^{F40}replacement] trustee is elected, the [^{F38}original] trustee shall forthwith—
 - (a) so notify the Accountant in Bankruptcy; and
 - (b) report the proceedings at the statutory meeting to the sheriff, ^{F41}
 [^{F42}and he shall continue to act as the trustee.]

^{F31}(4A) ^{F37}]

(5) ^{F37}

Textual Amendments

- F25** S. 24 heading substituted (1.4.2008) by virtue of Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), **ss. 11(4)(b)**, 227(3) (with s. 223); S.S.I. 2008/115, **art. 3(1)(a)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F26** S. 24(1) substituted (1.4.1993, subject to savings in arts. 4, 5 of S.I. 1993/438) by 1993 c. 6, s. 11(3), **Sch. 1 para. 12(2)** (with s. 12(6)); S.I. 1993/438, **art.3**
- F27** Words in s. 24(1) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), **ss. 11(4)(a)**, 227(3) (with s. 223); S.S.I. 2008/115, **art. 3(1)(a)** (with arts. 4-6, 10) (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5)
- F28** Words in s. 24(2) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), **ss. 36**, 227(3), **Sch. 1 para. 23(2)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F29** Words in s. 24(2) repealed (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), **ss. 226**, 227(3), **Sch. 6 Pt. 1** (with s. 223); S.S.I. 2008/115, **art. 3(2)(3)**, Sch. 2 (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F30** S. 24(2)(d) repealed (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), **ss. 7(2)**, 227(3) (with s. 223); S.S.I. 2008/115, **art. 3(1)(a)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F31** S. 24(2)(e)(f) inserted (1.4.1993, subject to savings in arts. 4, 5 of S.I. 1993/438) by 1993 c. 6, s. 11(3), **Sch. 1 para. 12(3)** (with s. 12(6)); S.I. 1993/438, **art.3**
S. 24(3A)(3B) inserted (1.4.1993, subject to savings in arts. 4, 5 of S.I. 1993/438) by 1993 c. 6, s. 11(3), **Sch. 1 para. 12(4)** (with s. 12(6)); S.I. 1993/438, **art.3**
Words in s. 24(4) inserted (1.4.1993, subject to savings in arts. 4, 5 of S.I. 1993/438) by 1993 c. 6, s. 11(3), **Sch. 1 para. 12(5)** (with s. 12(6)); S.I. 1993/438, **art.3**

Status: Point in time view as at 01/04/2008.

Changes to legislation: Bankruptcy (Scotland) Act 1985 (repealed), Cross Heading: Statutory meeting of creditors and trustee vote is up to date with all changes known to be in force on or before 14 July 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)

- S. 24(4A) inserted (1.4.1993, subject to savings in arts. 4, 5 of S.I. 1993/438) by 1993 c. 6, s. 11(3), **Sch. 1 para. 12(6)** (with s. 12(6)); S.I. 1993/438, **art.3**
- F32** Words in s. 24(3) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 23(3)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F33** Word in s. 24(3A) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 23(4)(a)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F34** Words in s. 24(3A)(a) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 23(4)(b)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F35** Word in s. 24(3A)(b) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 23(4)(c)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F36** Words in s. 24(3A) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 23(4)(d)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F37** S. 24(3B)(4A)(5) repealed (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 28(4), 227(3) (with s. 223); S.S.I. 2008/115, **art. 3(1)(a)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F38** Word in s. 24(4) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 23(5)(a)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F39** Words in s. 24(4) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 23(5)(b)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F40** Word in s. 24(4) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 23(5)(c)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F41** Words in s. 24(4)(b) repealed (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 226, 227(3), **Sch. 6 Pt. 1** (with s. 223); S.S.I. 2008/115, **art. 3(2)(3)**, Sch. 2 (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F42** Words in s. 24(4) inserted (1.4.2004) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 23(5)(d)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))

25 [F43 Appointment of replacement trustee]

[F44(A1) This section applies where a replacement trustee is elected by virtue of a trustee vote.]

- (1) On the election of the [F45replacement] trustee—
 - (a) the [F46original] trustee shall forthwith make a report of the proceedings at the statutory meeting to the sheriff; and
 - (b) the debtor, a creditor, the [F46original] trustee, the [F45replacement] trustee or the Accountant in Bankruptcy may, within 4 days after the statutory meeting, object to any matter connected with the election; and such objection shall be by summary application to the sheriff, specifying the grounds on which the objection is taken.
- (2) If there is no timeous objection under subsection (1)(b) above, the sheriff shall forthwith declare the elected person to be the [F47trustee in the sequestration] ; and the sheriff shall [F48make an order appointing him as such].

Status: Point in time view as at 01/04/2008.

Changes to legislation: Bankruptcy (Scotland) Act 1985 (repealed), Cross Heading: Statutory meeting of creditors and trustee vote is up to date with all changes known to be in force on or before 14 July 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)

[^{F49}(2A) ^{F50}.....]

- (3) If there is a timeous objection under subsection (1)(b) above, the sheriff shall forthwith give parties an opportunity to be heard thereon and shall give his decision.
- (4) If in his decision under subsection (3) above the sheriff—
 - (a) rejects the objection, subsection (2) above shall apply as if there had been no timeous objection;
 - (b) sustains the objection, he shall order the [^{F51}original] trustee to arrange a new meeting [^{F52}at which a new trustee vote shall be held]; and sections 23 and 24 of this Act and this section shall apply in relation to such a meeting.
- (5) Any declaration, [^{F53}appointment] or decision of the sheriff under this section shall be final, and no expense in objecting under this section shall fall on the debtor's estate.
- (6) The [^{F54}replacement] trustee shall—
 - (a) ^{F55}.....
 - (b) ^{F56}... publish a notice in the Edinburgh Gazette ^{F57}...stating that he has been [^{F58}appointed] as ^{F56}... trustee [^{F49}and giving such other information as may be prescribed].

Textual Amendments

- F43** S. 25 heading substituted (1.4.2008) by virtue of Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 11(5)(b), 227(3) (with s. 223); S.S.I. 2008/115, art. 3(1)(a) (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F44** S. 25(A1) inserted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 11(5)(a), 227(3) (with s. 223); S.S.I. 2008/115, art. 3(1)(a) (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F45** Words in s. 25(1) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 226, 227(3), Sch. 1 para. 24(2)(a)(i) (with s. 223); S.S.I. 2008/115, art. 3(1)(i) (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F46** Words in s. 25(1) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 226, 227(3), Sch. 1 para. 24(2)(b) (with s. 223); S.S.I. 2008/115, art. 3(1)(i) (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F47** Words in s. 25(2) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 226, 227(3), Sch. 1 para. 24(3)(a) (with s. 223); S.S.I. 2008/115, art. 3(1)(i) (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F48** Words in s. 25(2) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 226, 227(3), Sch. 1 para. 24(3)(b) (with s. 223); S.S.I. 2008/115, art. 3(1)(i) (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F49** S. 25(2A) inserted (1.4.1993, subject to savings in arts. 4, 5 of S.I. 1993/438) by 1993 c. 6, s. 11(3), Sch. 1 para. 13(2) (with s. 12(6)); S.I. 1993/438, art.3
Words at the end of s. 26(6)(b) added (1.4.1993, subject to savings in arts. 4, 5 of S.I. 1993/438) by 1993 c. 6, s. 11(3), Sch. 1 para. 13(3) (with s. 12(6)); S.I. 1993/438, art.3
- F50** S. 25(2A) repealed (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 28(5), 227(3) (with s. 223); S.S.I. 2008/115, art. 3(1)(a) (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F51** Word in s. 25(4)(b) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 226, 227(3), Sch. 1 para. 24(4)(a) (with s. 223); S.S.I. 2008/115, art. 3(1)(i) (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))

Status: Point in time view as at 01/04/2008.

Changes to legislation: Bankruptcy (Scotland) Act 1985 (repealed), Cross Heading: Statutory meeting of creditors and trustee vote is up to date with all changes known to be in force on or before 14 July 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)

- F52** Words in s. 25(4)(b) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 226, 227(3), **Sch. 1 para. 24(4)(b)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F53** Word in s. 25(5) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 226, 227(3), **Sch. 1 para. 24(5)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F54** Word in s. 25(6) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 226, 227(3), **Sch. 1 para. 24(6)(a)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F55** S. 25(6)(a) and word following it repealed (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 226, 227(3), {Sch. 6 Pt. 1} (with s. 233); S.S.I. 2008/115, **art. 3(2)(3)**, Sch. 2 (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F56** Words in s. 25(6)(b) repealed (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 226, 227(3), {Sch. 6 Pt. 1} (with s. 233); S.S.I. 2008/115, **art. 3(2)(3)**, Sch. 2 (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F57** Words in s. 25(6)(b) repealed (1.4.1993, subject to savings in arts. 4, 5 of S.I. 1993/438) by 1993 c. 6, s. 11(3), **Sch.2** (with s. 12(6)); S.I. 1993/438, **art.3**
- F58** Words in s. 25(6)(b) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 226, 227(3), **Sch. 1 para. 24(6)(b)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))

[^{F59}25A Appointment of permanent trustee in certain cases.

^{F60}

Textual Amendments

- F59** S. 25A inserted (1.4.1993, subject to savings in arts. 4, 5 of S.I. 1993/438) by 1993 c. 6, s.7 (with s. 12(6)); S.I. 1993/438, **art.3**
- F60** S. 25A repealed (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 226, 227(3), **Sch. 6 Pt. 1** (with s. 223); S.S.I. 2008/115, **art. 3(2)(3)**, Sch. 2 (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))

26 [^{F61}Provisions relating to termination of original trustee's functions]

[^{F62}(A1) This section applies where a replacement trustee is appointed under section 25 of this Act.]

- (1) [^{F63}The original trustee, shall, on the appointment of the replacement trustee], hand over to him everything in his possession which relates to the sequestration (including [^{F64}the statement of assets and liabilities, and a copy] of the statement prepared under section 23(3)(d), and of the written comments sent under section 20(2)(c) of this Act) and shall thereupon cease to act in the sequestration.
- (2) Within 3 months of the [^{F65}appointment of the replacement trustee, the original] trustee shall—
 - (a) submit to the Accountant in Bankruptcy—
 - (i) his accounts of his intromissions (if any) with the debtor's estate; and
 - (ii) a claim for outlays reasonably incurred, and for remuneration for work reasonably undertaken, by him; and

Status: Point in time view as at 01/04/2008.

Changes to legislation: Bankruptcy (Scotland) Act 1985 (repealed), Cross Heading: Statutory meeting of creditors and trustee vote is up to date with all changes known to be in force on or before 14 July 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)

- (b) send to the [^{F66}replacement] trustee^{F67} . . . , a copy of what is submitted to the Accountant in Bankruptcy under paragraph (a) above.
- [^{F68}(2A) Where the original trustee was appointed under section 2(5) of this Act as the interim trustee in the sequestration, his accounts and the claim referred to in subsection (2)(a) above shall include accounts and a claim for the period of his appointment as interim trustee.]
- (3) On a submission being made to him under subsection (2) above, the Accountant in Bankruptcy—
- (a) shall—
- (i) audit the accounts; and
- (ii) issue a determination fixing the amount of the outlays and remuneration payable to the [^{F69}original] trustee; and
- (b) shall send a copy of—
- (i) the said determination to the [^{F70}original] trustee^{F67} . . . ; and
- (ii) the [^{F71}original] trustee's audited accounts and of the said determination to the [^{F72}replacement] trustee, who shall insert the copies in the sederunt book.
- (4) The [^{F73}original] trustee, the [^{F74}replacement] trustee, the debtor or any creditor may appeal to the sheriff against a determination under subsection (3)(a)(ii) above within 14 days of its issue [^{F75}; and the decision of the sheriff on such an appeal shall be final].
- (5) The [^{F76}replacement] trustee, on being [^{F77}appointed] , shall make such insertions in the sederunt book as are appropriate to provide a record of the sequestration process before his [^{F78}appointment] , but he shall make no insertion therein relating to the written comments made by the [^{F79}original] trustee under section 20(2)(c) of this Act.
- [^{F75}(5A) This section does not apply in any case where the Accountant in Bankruptcy is the [^{F80}original] trustee.]

Textual Amendments

- F61** S. 26 heading substituted (1.4.2008) by virtue of *Bankruptcy and Diligence etc. (Scotland) Act 2007* (asp 3), ss. 36, 227(3), **Sch. 1 para. 26(10)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F62** S. 26(A1) inserted (1.4.2008) by *Bankruptcy and Diligence etc. (Scotland) Act 2007* (asp 3), ss. 36, 227(3), **Sch. 1 para. 25(2)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F63** Words in s. 26(1) substituted (1.4.2008) by *Bankruptcy and Diligence etc. (Scotland) Act 2007* (asp 3), ss. 36, 227(3), **Sch. 1 para. 25(3)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F64** Words in s. 26(1) substituted (1.4.1993, subject to savings in arts. 4, 5 of S.I. 1993/438) by 1993 c. 6, s. 11(3), **Sch. 1 para. 14(2)** (with s. 12(6)); S.I. 1993/438, **art.3**
- F65** Words in s. 26(2) substituted (1.4.2008) by *Bankruptcy and Diligence etc. (Scotland) Act 2007* (asp 3), ss. 36, 227(3), **Sch. 1 para. 25(4)(a)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F66** Word in s. 26(2)(b) substituted (1.4.2008) by *Bankruptcy and Diligence etc. (Scotland) Act 2007* (asp 3), ss. 36, 227(3), **Sch. 1 para. 25(4)(b)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))

Status: Point in time view as at 01/04/2008.

Changes to legislation: Bankruptcy (Scotland) Act 1985 (repealed), Cross Heading: Statutory meeting of creditors and trustee vote is up to date with all changes known to be in force on or before 14 July 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)

- F67** Words in s. 26(2)(b)(3)(b)(i) repealed (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss 226, 227(3), **Sch. 6 Pt. 1** (with s. 223); S.S.I. 2008/115, **art. 3(2)(3)**, Sch. 2 (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F68** S. 26(2A) inserted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 25(5)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F69** Word in s. 26(3)(a)(ii) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 25(6)(a)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F70** Word in s. 26(3)(b)(i) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 25(6)(b)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F71** Word in s. 26(3)(b)(ii) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 25(6)(c)(i)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F72** Word in s. 26(3)(b)(ii) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 25(6)(c)(ii)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F73** Word in s. 26(4) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 25(7)(a)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F74** Word in s. 26(4) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 25(7)(b)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F75** Words in s. 26(4) inserted (1.4.1993, subject to savings in arts. 4, 5 of S.I. 1993/438) by 1993 c. 6, s. 11(3), **Sch. 1 para. 14(3)** (with s. 12(6)); S.I. 1993/438, **art.3**
S. 26(5A) inserted (1.4.1993, subject to savings in arts. 4, 5 of S.I. 1993/438) by 1993 c. 6, s. 11(3), **Sch. 1 para. 14(4)** (with s. 12(6)); S.I. 1993/438, **art.3**
- F76** Word in s. 26(5) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 25(8)(a)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F77** Word in s. 26(5) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 25(8)(b)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F78** Word in s. 26(5) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 25(8)(c)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F79** Word in s. 26(5) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 25(8)(d)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F80** Word in s. 26(5A) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 25(9)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(a)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))

[26A] ^{F81}Accountant in Bankruptcy to account for intromissions.

- (1) This section applies in any case where the Accountant in Bankruptcy was the [^{F82}original] trustee and some other person [^{F83}is appointed as replacement trustee under section 25 of this Act] .
- (2) The Accountant in Bankruptcy shall, on [^{F84}the appointment of the replacement trustee], hand over to the [^{F85}replacement] trustee everything in his possession which

Status: Point in time view as at 01/04/2008.

Changes to legislation: Bankruptcy (Scotland) Act 1985 (repealed), Cross Heading: Statutory meeting of creditors and trustee vote is up to date with all changes known to be in force on or before 14 July 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)

- relates to the sequestration and which he obtained in his capacity as ^{F86}original] trustee (including the statement of assets and liabilities); and thereupon he shall cease to act as ^{F87} . . . trustee.
- (3) The Accountant in Bankruptcy shall, not later than 3 months after the ^{F88}appointment of the replacement] trustee, supply to the ^{F89}replacement] trustee—
- (a) his accounts of his intromissions (if any) as ^{F90}original] trustee with the debtor's estate;
 - (b) a determination of his fees and outlays calculated in accordance with regulations made under section 69A of this Act; and
 - (c) a copy of the notice mentioned in subsection (4)(b) below.
- (4) The Accountant in Bankruptcy shall send to the debtor and to all creditors known to him—
- (a) a copy of the determination mentioned in subsection (3)(b) above; and
 - (b) a notice in writing stating—
 - (i) that the Accountant in Bankruptcy has commenced the procedure under this Act leading to discharge in respect of his actings as ^{F87} . . . trustee;
 - (ii) that the accounts of his intromissions (if any) with the debtor's estate are available for inspection at such address as the Accountant in Bankruptcy may determine;
 - (iii) that an appeal may be made to the sheriff under subsection (5) below; and
 - (iv) the effect of subsection (7) below.
- (5) The ^{F91}replacement] trustee, the debtor and any creditor may appeal to the sheriff against—
- (a) the determination of the Accountant in Bankruptcy mentioned in subsection (3)(b) above;
 - (b) the discharge of the Accountant in Bankruptcy in respect of his actings as ^{F87} . . . trustee; or
 - (c) both such determination and discharge.
- (6) An appeal under subsection (5) above shall be made not more than 14 days after the issue of the notice mentioned in subsection (4)(b) above; and the decision of the sheriff on such an appeal shall be final.
- (7) Where—
- (a) the requirements of this section have been complied with; and
 - (b) no appeal is made to the sheriff under subsection (5) above or such an appeal is made but is refused as regards the discharge of the Accountant in Bankruptcy,
- the Accountant in Bankruptcy shall be discharged from all liability (other than any liability arising from fraud) to the creditors or to the debtor in respect of any act or omission of the Accountant in Bankruptcy in exercising the functions of ^{F87} . . . trustee in the sequestration.
- (8) The ^{F92}replacement] trustee, on being ^{F93}appointed], shall make such insertions in the sederunt book as are appropriate to provide a record of the sequestration process before his ^{F94}appointment] .]

Status: Point in time view as at 01/04/2008.

Changes to legislation: Bankruptcy (Scotland) Act 1985 (repealed), Cross Heading: Statutory meeting of creditors and trustee vote is up to date with all changes known to be in force on or before 14 July 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)

Textual Amendments

- F81** S. 26A inserted (1.4.1993, subject to savings in arts. 4, 5 of S.I. 1993/438) by 1993 c. 6, s. 11(3), **Sch. 1 para.15** (with s. 12(6)); S.I. 1993/438, **art.3**
- F82** Word in s. 26A(1) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 26(2)(a)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F83** Words in s. 26A(1) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 26(2)(b)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F84** Words in s. 26A(2) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 26(3)(a)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F85** Word in s. 26A(2) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 26(3)(b)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F86** Word in s. 26A(2) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 26(3)(c)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F87** Words in s. 26A(2)(4)(5)(7) repealed (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 226, 227(3), **Sch. 6 Pt. 1** (with s. 223); S.S.I. 2008/115, **art. 3(2)(3)**, Sch. 2 (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F88** Words in s. 26A(3) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 26(4)(a)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F89** Word in s. 26A(3) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 26(4)(b)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F90** Word in s. 26A(3)(a) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 26(4)(c)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F91** Word in s. 26A(5) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 26(5)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F92** Word in s. 26A(8) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 26(6)(a)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F93** Word in s. 26A(8) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 26(6)(b)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F94** Word in s. 26A(8) substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 26(6)(c)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))

27 [F95] Discharge of original trustee]

- (1) On receiving a copy of the Accountant in Bankruptcy's determination sent under subsection (3)(b)(i) of section 26 of this Act the [F96 original] trustee may apply to him for a certificate of discharge.

Status: Point in time view as at 01/04/2008.

Changes to legislation: Bankruptcy (Scotland) Act 1985 (repealed), Cross Heading: Statutory meeting of creditors and trustee vote is up to date with all changes known to be in force on or before 14 July 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)

- (2) The [^{F96}original] trustee shall send notice of an application under subsection (1) above to the debtor [^{F97}, to all creditors known to the original trustee] and to the [^{F98}replacement] trustee and shall inform the debtor—
- (a) that he, the [^{F98}replacement] trustee or any creditor may make written representations relating to the application to the Accountant in Bankruptcy within a period of 14 days after such notification;
 - (b) that the audited accounts of his intromissions (if any) with the debtor's estate are available for inspection at the office of the [^{F96}original] trustee and that a copy of those accounts has been sent to the [^{F98}replacement] trustee for insertion in the sederunt book; and
 - (c) of the effect mentioned in subsection (5) below.
- (3) On the expiry of the period mentioned in subsection (2)(a) above the Accountant in Bankruptcy, after considering any representations duly made to him, shall—
- (a) grant or refuse to grant the certificate of discharge; and
 - (b) notify (in addition to the [^{F96}original] trustee) the debtor, the [^{F98}replacement] trustee, and all creditors who have made such representations, accordingly.
- (4) The [^{F96}original] trustee, the [^{F98}replacement] trustee, the debtor or any creditor who has made representations under subsection (2)(a) above may, within 14 days after the issuing of the determination under subsection (3) above, appeal therefrom to the sheriff and if the sheriff determines that a certificate of discharge which has been refused should be granted he shall order the Accountant in Bankruptcy to grant it; and the sheriff clerk shall send a copy of the decree of the sheriff to the Accountant in Bankruptcy.

[^{F99}(4A) The decision of the sheriff in an appeal under subsection (4) above shall be final.]

- (5) The grant of a certificate of discharge under this section by the Accountant in Bankruptcy shall have the effect of discharging the [^{F96}original] trustee from all liability (other than any liability arising from fraud) to the creditors or to the debtor in respect of any act or omission of the [^{F96}original] trustee in exercising the functions conferred on him by this Act.
- (6) Where a certificate of discharge is granted under this section, the [^{F98}replacement] trustee shall make an appropriate entry in the sederunt book.
- (7) ^{F100}

[^{F99}(7A) This section does not apply in any case where the Accountant in Bankruptcy is the [^{F96}original] trustee.]

Textual Amendments

- F95** S. 27 heading substituted (1.4.2008) by virtue of the [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 36, 227(3), [Sch. 1 para. 27\(2\)](#) (with s. 223); S.S.I. 2008/115, [art. 3\(1\)\(i\)](#) (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F96** Words in s. 27 substituted (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 36, 227(3), [Sch. 1 para. 27\(1\)\(b\)](#) (with s. 223); S.S.I. 2008/115, [art. 3\(1\)\(i\)](#) (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F97** Words in s. 27(2) inserted (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 36, 227(3), [Sch. 1 para. 27\(1\)\(a\)](#) (with s. 223); S.S.I. 2008/115, [art. 3\(1\)\(i\)](#) (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))

Status: Point in time view as at 01/04/2008.

Changes to legislation: Bankruptcy (Scotland) Act 1985 (repealed), Cross Heading: Statutory meeting of creditors and trustee vote is up to date with all changes known to be in force on or before 14 July 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)

- F98** Words in s. 27 substituted (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 36, 227(3), **Sch. 1 para. 27(1)(c)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F99** S. 27(4A) inserted (1.4.1993, subject to savings in arts. 4, 5 of S.I. 1993/438) by 1993 c. 6, s. 11(3), **Sch. 1 para. 16(2)** (with s. 12(6)); S.I. 1993/438, **art.3**
S. 27(7A) inserted (1.4.1993, subject to savings in arts. 4, 5 of S.I. 1993/438) by 1993 c. 6, s. 11(3), **Sch. 1 para. 16(3)** (with s. 12(6)); S.I. 1993/438, **art.3**
- F100** S. 27(7) repealed (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 226, 227(3), **Sch. 6 Pt. 1** (with s. 223); S.S.I. 2008/115, **art. 3(2)(3)**, Sch. 2 (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))

Status:

Point in time view as at 01/04/2008.

Changes to legislation:

Bankruptcy (Scotland) Act 1985 (repealed), Cross Heading: Statutory meeting of creditors and trustee vote is up to date with all changes known to be in force on or before 14 July 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.