



Bankruptcy (Scotland) Act 1985 (repealed)

1985 CHAPTER 66

Replacement of permanent trustee

29 Removal of permanent trustee and trustee not acting.

- (1) The permanent trustee may be removed from office—
 - (a) by the creditors (other than any such person as is mentioned in section 24(3) of this Act) at a meeting called for the purpose if they also elect forthwith a new permanent trustee; or
 - (b) without prejudice to section [F¹1A(2)] of this Act, by order of the sheriff, on the application of—
 - (i) the Accountant in Bankruptcy;
 - (ii) the commissioners; or
 - (iii) a person representing not less than one quarter in value of the creditors,if the sheriff is satisfied that cause has been shown on the basis of circumstances other than those to which subsection (9) below applies.
- (2) The sheriff shall order any application under subsection (1)(b) above to be served on the permanent trustee and intimated in the Edinburgh Gazette, and before disposing of the application shall give the permanent trustee an opportunity of being heard.
- (3) On an application under subsection (1)(b) above, the sheriff may, in ordering the removal of the permanent trustee from office, make such further order as he thinks fit or may, instead of removing the permanent trustee from office, make such other order as he thinks fit.
- (4) The permanent trustee, the Accountant in Bankruptcy, the commissioners or any creditor may appeal against the decision of the sheriff on an application under subsection (1)(b) above within 14 days after the date of that decision.

Status: Point in time view as at 01/12/1993. This version of this provision has been superseded.

Changes to legislation: Bankruptcy (Scotland) Act 1985 (repealed), Section 29 is up to date with all changes known to be in force on or before 14 July 2024.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)

- (5) If the permanent trustee has been removed from office under subsection (1)(b) above or under section [F11A(2)] of this Act or following an appeal under subsection (4) above, the commissioners or, if there are no commissioners, the Accountant in Bankruptcy shall call a meeting of creditors, to be held not more than 28 days after such removal, for the election by them of a new permanent trustee.
- (6) Without prejudice to section [F11A(2)] of this Act, where the sheriff is satisfied of any of the circumstances to which subsection (9) below applies he may, on the application of a commissioner, the debtor, a creditor or the Accountant in Bankruptcy, and after such intimation as the sheriff considers necessary—
- (a) declare the office of permanent trustee to have become or to be vacant; and
 - (b) make any necessary order to enable the sequestration to proceed or to safeguard the estate pending the election of a new permanent trustee;
- and thereafter the commissioners or, if there are no commissioners, the Accountant in Bankruptcy shall call a meeting of creditors, to be held not more than 28 days after such declaration, for the election by them of a new permanent trustee.
- (7) The foregoing provisions of this Act relating to the election and confirmation in office of the permanent trustee shall, subject to any necessary modifications, apply in relation to the election and confirmation in office of a new permanent trustee in pursuance of subsection (5) or (6) above.
- (8) Subsections (5) to (7) of section 28 of this Act shall apply for the purposes of this section as they apply for the purposes of that section.
- (9) The circumstances to which this subsection applies are that the permanent trustee—
- (a) is unable to act (whether by, under or by virtue of a provision of this Act or from any other cause whatsoever other than death); or
 - (b) has so conducted himself that he should no longer continue to act in the sequestration.

Textual Amendments

- F1** Words in s. 29(1)(b)(5)(6) 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.18** (with s. 12(6)); S.I. 1993/438, **art.3**

Status:

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