

*Status: Point in time view as at 31/12/2014.*

*Changes to legislation: Bankruptcy (Scotland) Act 1985 (repealed), SCHEDULE 6 is up to date with all changes known to be in force on or before 31 May 2024.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)*

## SCHEDULES

### SCHEDULE 6

#### MEETINGS OF CREDITORS AND COMMISSIONERS

##### PART I

##### MEETINGS OF CREDITORS OTHER THAN THE STATUTORY MEETING

###### *Calling of meeting*

- 1 The <sup>F1</sup> . . . trustee shall call a meeting of creditors if required to do so by—
- (a) order of the [<sup>F2</sup>sheriff] ;
  - (b) one-tenth in number or one-third in value of the creditors;
  - (c) a commissioner; or
  - (d) the Accountant in Bankruptcy.

###### Textual Amendments

- F1** Word in Sch. 6 para. 1 repealed (1.4.2008) by [Bankruptcy and Diligence etc.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\(2\)\(3\)](#), Sch. 2 (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F2** Word in Sch. 6 para. 1 substituted (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 36, 227(3), [Sch. 1 para. 61\(a\)](#) (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))

- 2 A meeting called under paragraph 1 above shall be held not later than 28 days after the issuing of the order of the [<sup>F3</sup>sheriff] under sub-paragraph (a) of that paragraph or the receipt by the <sup>F4</sup> . . . trustee of the requirement under sub-paragraph (b), (c) or (d) thereof.

###### Textual Amendments

- F3** Word in Sch. 6 para. 2 substituted (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 36, 227(3), [Sch. 1 para. 61\(a\)](#) (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))
- F4** Word in Sch. 6 para. 2 repealed (1.4.2008) by [Bankruptcy and Diligence etc.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))

- 3 The <sup>F5</sup> . . . trustee or a commissioner who has given written notice to him may at any time call a meeting of creditors.

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#### Textual Amendments

**F5** Word in Sch. 6 para. 3 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))

- 4 The <sup>F6</sup> . . . trustee or a commissioner calling a meeting under paragraph 1 or 3 above shall, not less than 7 days before the date fixed for the meeting, notify—
- (a) every creditor known to him; and
  - (b) the Accountant in Bankruptcy,
- of the date, time and place fixed for the holding of the meeting and its purpose.

#### Textual Amendments

**F6** Word in Sch. 6 para. 4 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))

- 5 (1) Where a requirement has been made under paragraph 1 above but no meeting has been called by the <sup>F7</sup> . . . trustee, the Accountant in Bankruptcy may, of his own accord or on the application of any creditor, call a meeting of creditors.
- (2) The Accountant in Bankruptcy calling a meeting under this paragraph shall, not less than 7 days before the date fixed for the meeting, take reasonable steps to notify the creditors of the date, time and place fixed for the holding of the meeting and its purpose.

#### Textual Amendments

**F7** Word in Sch. 6 para. 5 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))

- 6 It shall not be necessary to notify under paragraph 4 or 5 of this Schedule any creditor whose accepted claim is less than £50 or such sum as may be prescribed, unless the creditor has requested in writing such notification.

#### *Role of <sup>F8</sup> . . . trustee at meeting*

#### Textual Amendments

**F8** Words in cross-heading preceding Sch. 6 para. 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))

- 7 (1) At the commencement of a meeting, the chairman shall be the <sup>F9</sup> . . . trustee who as chairman shall, after carrying out his duty under section 49(1) of this Act, invite the creditors to elect one of their number as chairman in his place and shall preside over the election.

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- (2) If a chairman is not elected in pursuance of this paragraph, the <sup>F9</sup> . . . trustee shall remain the chairman throughout the meeting.
- (3) The <sup>F9</sup> . . . trustee shall arrange for a record to be made of the proceedings at the meeting and he shall insert the minutes of the meeting in the sederunt book.

#### Textual Amendments

**F9** Words in Sch. 6 para. 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))

#### *Appeals*

- 8 The <sup>F10</sup> . . . trustee, a creditor or any other person having an interest may, within 14 days after the date of a meeting called under paragraph 1 or 3 above, appeal to the sheriff against a resolution of the creditors at the meeting.

#### Textual Amendments

**F10** Word in Sch. 6 para. 8 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))

## PART II

### ALL MEETINGS OF CREDITORS

#### *Validity of proceedings*

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

#### *Locus of meeting*

- 10 Every meeting shall be held 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.

#### *Mandatories*

- 11 (1) A creditor may authorise in writing any person to represent him at a meeting.
- (2) A creditor shall lodge any authorisation given under sub-paragraph (1) above with <sup>F11</sup> . . . the <sup>F12</sup> . . . trustee before the commencement of the meeting.

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- (3) Any reference in paragraph 7(1) of this Schedule and the following provisions of this Part of this Schedule to a creditor shall include a reference to a person authorised by him under this paragraph.

#### Textual Amendments

- F11** Words in Sch. 6 para. 11(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))
- F12** Word in Sch. 6 para. 11 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))

#### *Quorum*

- 12 The quorum at any meeting shall be one creditor.

#### *Voting at meeting*

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

#### *Objections by creditors*

- 14 (1) The chairman at any meeting may allow or disallow any objection by a creditor, other than (if the chairman is not the <sup>F13</sup>. . . trustee) an objection relating to a creditor's claim.
- (2) Any person aggrieved by the determination of the chairman in respect of an objection may appeal therefrom to the sheriff.
- (3) If the chairman is in doubt whether to allow or disallow an objection, the meeting shall proceed as if no objection had been made, except that for the purposes of appeal the objection shall be deemed to have been disallowed.

#### Textual Amendments

- F13** Word in Sch. 6 para. 14 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))

#### *Adjournment of meeting*

- 15 (1) If no creditor has appeared at a meeting at the expiry of a period of half an hour after the time appointed for the commencement of the meeting, the chairman [<sup>F14</sup>may] adjourn the meeting to such other day as the chairman [<sup>F14</sup>may] appoint, being not less than 7 nor more than 21 days after the day on which the meeting was adjourned.
- (2) The chairman may, with the consent of a majority in value of the creditors who vote on the matter, adjourn a meeting.

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- (3) Any adjourned meeting shall be held at the same time and place as the original meeting, unless in the resolution for the adjournment of the meeting another time or place is specified.

#### Textual Amendments

- F14** Words in Sch. 6 para. 15(1) substituted (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 36, 227(3), [Sch. 1 para. 61\(b\)](#) (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))

#### *Minutes of meeting*

- 16 The minutes of every meeting shall be signed by the chairman and within 14 days of the meeting a copy of the minutes shall be sent to the Accountant in Bankruptcy.

### PART III

#### MEETINGS OF COMMISSIONERS

- 17 The <sup>F15</sup> . . . trustee may call a meeting of commissioners at any time, and shall call a meeting of commissioners—
- (a) on being required to do so by order of the [<sup>F16</sup>sheriff] ; or
  - (b) on being requested to do so by the Accountant in Bankruptcy or any commissioner.

#### Textual Amendments

- F15** Word in Sch. 6 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))
- F16** Word in Sch. 6 substituted (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 36, 227(3), [Sch. 1 para. 61\(a\)](#) (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))

- 18 If the <sup>F17</sup> . . . trustee fails to call a meeting of commissioners within 14 days of being required or requested to do so under paragraph 17 of this Schedule, a commissioner may call a meeting of commissioners.

#### Textual Amendments

- F17** Word in Sch. 6 para. 19 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))

- 19 The <sup>F18</sup> . . . trustee shall give the commissioners at least 7 days notice of a meeting called by him, unless the commissioners decide that they do not require such notice.

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#### Textual Amendments

**F18** Word in Sch. 6 para. 19 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))

20 The <sup>F19</sup> . . . trustee shall act as clerk at meetings and shall insert a record of the deliberations of the commissioners in the sederunt book.

#### Textual Amendments

**F19** Word in Sch. 6 para. 20 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))

21 If the commissioners are considering the performance of the functions of the <sup>F20</sup> . . . trustee under any provision of this Act, he shall withdraw from the meeting if requested to do so by the commissioners; and in such a case a commissioner shall act as clerk, shall transmit a record of the deliberations of the commissioners to the <sup>F21</sup> . . . trustee for insertion in the sederunt book and shall authenticate the insertion when made.

#### Textual Amendments

**F20** Word in Sch. 6 para. 21 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** Word in Sch. 6 para. 21 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\(1\)\(h\)\(2\)\(3\)](#), Sch. 2 (with arts. 4-6, 10) (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5)

22 The quorum at a meeting of commissioners shall be one commissioner and the commissioners may act by a majority of the commissioners present at the meeting.

23 Any matter may be agreed by the commissioners without a meeting if such agreement is unanimous and is subsequently recorded in a minute signed by the commissioners; and that minute shall be inserted by the <sup>F22</sup> . . . trustee in the sederunt book.

#### Textual Amendments

**F22** Word in Sch. 6 para. 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))

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