



Bankruptcy (Scotland) Act 1993

1993 CHAPTER 6

2 Appointment and functions of interim trustee

For section 2 of the 1985 Act (interim trustee) there shall be substituted the following section—

“2 Appointment and functions of interim trustee

- (1) Where the court awards sequestration of the debtor’s estate and the petition for the sequestration—
- (a) nominates a person to be interim trustee;
 - (b) states that the person satisfies the conditions mentioned in subsection (3) below; and
 - (c) has annexed to it a copy of the undertaking mentioned in subsection (3) (c) below,

the court may, if it appears to the court that the person satisfies those conditions and if no interim trustee has been appointed in pursuance of subsection (5) below, appoint that person to be interim trustee in the sequestration.

- (2) Where the court awards sequestration of the debtor’s estate and—
- (a) it does not appoint a person to be interim trustee in pursuance of subsection (1) above; and
 - (b) no interim trustee has been appointed in pursuance of subsection (5) below,

the court shall appoint the Accountant in Bankruptcy to be interim trustee in the sequestration.

- (3) The conditions referred to in subsection (1) above are that the person—
- (a) resides within the jurisdiction of the Court of Session;
 - (b) is qualified to act as an insolvency practitioner; and
 - (c) has given an undertaking, in writing, that he will act—
 - (i) as interim trustee; and
 - (ii) where no permanent trustee is elected, as permanent trustee,

in the sequestration.

- (4) The interim trustee's general functions shall be—
- (a) to safeguard the debtor's estate pending the appointment of a permanent trustee under this Act;
 - (b) to ascertain the reasons for the debtor's insolvency and the circumstances surrounding it;
 - (c) to ascertain the state of the debtor's liabilities and assets;
 - (d) to administer the sequestration process pending the appointment of a permanent trustee; and
 - (e) whether or not he is still acting in the sequestration, to supply the Accountant in Bankruptcy with such information as the Accountant in Bankruptcy considers necessary to enable him to discharge his functions under this Act.
- (5) Where a petition for sequestration is presented by a creditor or a trustee acting under a trust deed, the court may appoint an interim trustee before sequestration is awarded—
- (a) if the debtor consents; or
 - (b) if the trustee acting under the trust deed or any creditor shows cause.
- (6) For the purposes of the appointment of an interim trustee under subsection (5) above—
- (a) where a person is nominated as mentioned in subsection (1)(a) above and the provisions of that subsection apply, the court may appoint that person; and
 - (b) where such a person is not appointed, the court shall appoint the Accountant in Bankruptcy.
- (7) Where the petition for sequestration was presented by a creditor or the trustee acting under a trust deed, the interim trustee shall, as soon as practicable, notify the debtor of his appointment.”