



# Bankruptcy (Scotland) Act 2016

## 2016 asp 21

### PART 4

#### TRUSTEES AND COMMISSIONERS

##### *Replacement trustees*

#### **63 Termination of original trustee's functions**

- (1) This section applies where—
  - (a) a replacement trustee is appointed under section 60, and
  - (b) the original trustee is not AiB.
- (2) On the appointment of the replacement trustee, the original trustee—
  - (a) must hand over to the replacement trustee everything in the original trustee's possession which relates to the sequestration, including—
    - (i) the statement of assets and liabilities,
    - (ii) a copy of the statement of the debtor's affairs prepared under section 42(1)(a) (as revised under section 48(4)(f) if so revised), and
    - (iii) a copy of the written comments sent under section 42(2)), and
  - (b) on that being done, must cease to act in the sequestration.
- (3) Within 3 months after the appointment of the replacement trustee, the original trustee must—
  - (a) submit to AiB—
    - (i) the original trustee's accounts for intromissions (if any) with the debtor's estate,
    - (ii) a claim for outlays reasonably incurred, and for remuneration for work reasonably undertaken, by the original trustee, and
  - (b) send to the replacement trustee a copy of what is submitted under paragraph (a).
- (4) Where the original trustee was appointed under section 54(1) as the interim trustee in the sequestration, the original trustee's accounts and the claim referred to in

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**Changes to legislation:** Bankruptcy (Scotland) Act 2016, Section 63 is up to date with all changes known to be in force on or before 19 April 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) View outstanding changes

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subsection (3)(a)(ii) must include accounts and a claim for the period of the original trustee's appointment as interim trustee.

- (5) On a submission being made under subsection (3)(a), AiB must—
- (a) audit the accounts,
  - (b) issue a determination fixing the amount of the outlays and remuneration payable to the original trustee, and
  - (c) send a copy of—
    - (i) the determination to the original trustee, and
    - (ii) the audited accounts and the determination to the replacement trustee.
- (6) The original trustee, the replacement trustee, the debtor or any creditor may appeal to the sheriff against the determination within 14 days after it is issued.
- (7) The decision of the sheriff on an appeal under subsection (6) is final.

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**Commencement Information**

**II** S. 63 in force at 30.11.2016 by S.S.I. 2016/294, reg. 2

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 78(2)(a) words in s. 78(2) renumbered as s. 78(2)(a) by [2019 asp 4 s. 7\(2\)\(a\)](#)
- s. 78(2)(b) and word inserted by [2019 asp 4 s. 7\(2\)\(b\)](#)