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STATUTORY INSTRUMENTS

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**2016 No. 1024**

**The Insolvency (England and Wales) Rules 2016**

**PART 10**

**BANKRUPTCY**

**CHAPTER 6**

**THE TRUSTEE IN BANKRUPTCY**

*Sub-division A: appointment and associated formalities*

**Appointment by creditors of new trustee**

**10.67.**—(1) This rule applies where the bankrupt's creditors decide to remove a trustee in bankruptcy under section 298(1) but do not, as part of the decision procedure to remove the trustee, appoint a new trustee.

(2) The existing trustee must send the creditors a notice inviting proposals for a new trustee.

(3) The notice must contain a statement explaining the effect of section 298(4B) (decision of creditors to remove a trustee does not take effect until creditors appoint another trustee).

(4) The notice must also explain that the existing trustee is not obliged to seek the creditors' views on any proposals that do not meet the requirements of paragraphs (5) and (6).

(5) Any proposal must state the name and contact details of the proposed trustee, and contain a statement that the proposed trustee is qualified to act as an insolvency practitioner in relation to the bankrupt and has consented to act as trustee.

(6) Any proposal must be received by the existing trustee within five business days of the date of the notice.

(7) Following the end of the period for inviting proposals under paragraph (2) of this rule, where any proposals are received the existing trustee must seek a decision from the creditors on the appointment of a replacement trustee by—

- (a) a decision procedure; or
- (b) the deemed consent procedure.

(8) Where paragraph (7) applies, the existing trustee must send the creditors a notice which complies with rules 15.7 and 15.8 so far as are relevant.

(9) The notice must also identify any person proposed to be nominated as trustee in accordance with this rule.

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(1) Section 298(8A) is inserted and subsection (1) is amended by paragraph 77 of Schedule 9, subsection (4) is amended, (2) omitted and (4A) and (4B) are inserted by paragraph 9 of Schedule 10 to the Small Business, Enterprise and Employment Act 2015 (c.26) and subsections (7) and (8) are amended by paragraph 23 of Schedule 19 to the Enterprise and Regulatory Reform Act 2013(c.24).

(10) The decision date in the notice must be no later than 14 days after the date for receiving proposals has passed.

(11) The creditors must be given at least seven days' notice of the decision date.

(12) A notice inviting proposals for a new trustee under paragraph (2) may be sent before or after the date of the decision to remove the trustee.

(13) Nothing in this rule affects the official receiver's ability under section 296(1)(2), at any time when trustee, to apply to the Secretary of State to appoint a trustee instead of the official receiver.

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(2) Section 296(5) is amended by paragraph 76 of Schedule 9 and (1) and (3) are amended by paragraph 7 of Schedule 10 to the Small Business, Enterprise and Employment Act 2015.