
STATUTORY INSTRUMENTS

2016 No. 1024

The Insolvency (England and Wales) Rules 2016

PART 10

BANKRUPTCY

CHAPTER 6

THE TRUSTEE IN BANKRUPTCY

Sub-division B: resignation and removal

Trustee's resignation and appointment of replacement (section 298(7))

10.77.—(1) A trustee may resign under section 298(7)(1) only—

- (a) on grounds of ill health;
- (b) because of the intention to cease to practise as an insolvency practitioner;
- (c) because the further discharge of the duties of trustee is prevented or made impracticable by —
 - (i) a conflict of interest, or
 - (ii) a change of personal circumstances; or
- (d) where two or more persons are acting as trustee jointly, and it is the opinion of both or all of them that it is no longer expedient that there should continue to be that number of joint trustees.

(2) Before resigning, the trustee must invite the creditors to consider, either by a decision procedure or by the deemed consent procedure, whether a replacement should be appointed except where the resignation is under sub-paragraph (1)(d).

(3) The notice to the creditors must—

- (a) state the trustee's intention to resign;
- (b) state that under rule 10.77(8) of the Insolvency (England and Wales) Rules 2016, the trustee will be released 21 days after the date of delivery of the notice of resignation to the prescribed person under section 298(7), unless the court orders otherwise; and
- (c) comply with rule 15.7 or 15.8 so far as applicable.

(4) The notice may suggest the name of a replacement trustee.

(5) The notice must be accompanied by a summary of the trustee's receipts and payments.

(6) The decision date must be not more than five business days before the date on which the trustee intends to give notice under section 298(7).

(7) The trustee must deliver a copy of the notice to the official receiver and the bankrupt.

(8) The resigning trustee's release is effective 21 days after the date on which the notice of resignation under section 298(7) is filed with the court in a bankruptcy based on a petition or, delivered to the official receiver in a bankruptcy based on a debtor's application.