Bankruptcy (Scotland) Act 2016

2016 asp 21

PART 14

VOLUNTARY TRUST DEEDS FOR CREDITORS

Effect of protected status etc.

178 Creditor's application as respects intromissions of trustee

(1) A creditor who is not sent a copy of the notice mentioned in section 169 or who has notified the trustee of objection to the trust deed within the relevant period may apply to the sheriff under this section.

(2) Where on such an application the sheriff is satisfied, on grounds other than those on which a petition under section 177(1)(b) has been or could have been presented by the creditor, that the intromissions of the trustee with the estate of the debtor have been so unduly prejudicial to the creditor's claim that the creditor should not be bound by the trustee's discharge, the sheriff may order that the creditor is not to be so bound.

(3) On the sheriff making an order under subsection (2), the sheriff clerk must—

(a) send a copy of the order to the trustee, and

(b) send a copy of the order to AiB for registration in the register of insolvencies.

(4) Any application under subsection (1) must be made within 28 days after the registration in the register of insolvencies of the trustee's statement of realisation and distribution of estate under the protected trust deed, as mentioned in section 186(8)(b).

(5) The sheriff to whom the application may be made is the sheriff to whom a petition for sequestration would be brought in respect of the debtor by virtue of section 15(1) or (3).