
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2013 No.

The Protected Trust Deeds (Scotland) Regulations 2013

PART 5

APPEALS AND DIRECTIONS

Appeal

27.—(1) The persons mentioned in paragraph (2) may appeal to the sheriff by way of summary application against—

- (a) any refusal by the Accountant to register a trust deed on the ground that the Accountant is not satisfied expenditure allowed or a contribution from income is appropriate under regulation 11(2)(c);
- (b) any determination by the Accountant fixing the remuneration payable to the trustee under a protected trust deed;
- (c) any direction under regulation 19(1) to the trustee; or
- (d) a refusal by the Accountant under regulation 24(11) to register Form 5 in the register of insolvencies.

(2) The persons are—

- (a) the trustee;
- (b) the debtor if able to satisfy the sheriff that the debtor has, or is likely to have, a pecuniary interest in the outcome of the appeal; and
- (c) any creditor if able to satisfy the sheriff that the creditor has, or is likely to have, any such interest in that outcome.

(3) The trustee may appeal to the sheriff by way of summary application against a refusal by the creditors to grant the trustee's discharge under regulation 25(2).

(4) The debtor may appeal to the sheriff by way of summary application against a refusal by the trustee to apply under regulation 24(1)(b)(i) for approval of the debtor's discharge.

(5) Any appeal under paragraph (1) must be made no later than 21 days after (as the case may be)—

- (a) the determination is made; or
- (b) the direction is given.

(6) The sheriff to whom any appeal under this regulation is to be made is the sheriff who, had a petition for the sequestration of the estate been presented at the date the trust deed was granted, would have had jurisdiction to hear that petition in terms of section 9(1) or (2) of the Act.

(7) The decision of the sheriff on an appeal under this regulation is final.

Sheriff's direction

28.—(1) Any person with an interest may at any time apply to the sheriff for a direction as regards the administration of the trust deed.

(2) A direction by virtue of paragraph (1) may include—

- (a) any order the sheriff thinks fit to make in the interests of justice; or
- (b) an order to cure any defect in procedure.

(3) The sheriff to whom any application under this regulation is to be made is the sheriff who, had a petition for the sequestration of the estate been presented at the date the trust deed was granted, would have had jurisdiction to hear that petition in terms of section 9(1) or (2) of the Act.