



Bankruptcy (Scotland) Act 1985

1985 CHAPTER 66

Discharge of permanent trustee

57 Discharge of permanent trustee

- (1) After the permanent trustee has made a final division of the debtor's estate and has inserted his final audited accounts in the sederunt book, he—
 - (a) shall deposit any unclaimed dividends and any unapplied balances in an appropriate bank or institution ;
 - (b) shall thereafter send to the Accountant in Bankruptcy the sederunt book, a copy of the audited accounts and a receipt for the deposit of the unclaimed dividends and unapplied balances ; and
 - (c) may at the same time as sending the said documents apply to the Accountant in Bankruptcy for a certificate of discharge.
- (2) The permanent trustee shall send notice of an application under subsection (1)(c) above to the debtor and to all the creditors known to the permanent trustee and shall inform the debtor and such creditors—
 - (a) that they may make written representations relating to the application to the Accountant in Bankruptcy within a period of 14 days after such notification;
 - (b) that the sederunt book is available for inspection at the office of the Accountant in Bankruptcy and contains the audited accounts of, and scheme of division in, the sequestration; and
 - (c) of the effect mentioned in subsection (5) below.
- (3) On the expiry of the period mentioned in subsection (2)(a) above, the Accountant in Bankruptcy, after examining the documents sent to him and considering any representations duly made to him, shall—
 - (a) grant or refuse to grant the certificate of discharge ; and
 - (b) notify (in addition to the permanent trustee) the debtor and all creditors who have made such representations accordingly.
- (4) The permanent trustee, the debtor or any creditor who has made representations under subsection (2)(a) above, may within 14 days after the issuing of the determination

under subsection (3) above, appeal therefrom to the sheriff and if the sheriff determines that a certificate of discharge which has been refused should be granted he shall order the Accountant in Bankruptcy to grant it; and the sheriff clerk shall send a copy of the decree of the sheriff to the Accountant in Bankruptcy.

- (5) The grant of a certificate of discharge under this section by the Accountant in Bankruptcy shall have the effect of discharging the permanent trustee from all liability (other than any liability arising from fraud) to the creditors or to the debtor in respect of any act or omission of the permanent trustee in exercising the functions conferred on him by this Act including, where he was also the interim trustee, the functions conferred on him as interim trustee.
- (6) Where a certificate of discharge is granted under this section, the Accountant in Bankruptcy shall make an appropriate entry in the register of insolvencies and in the sederunt book.
- (7) Where the permanent trustee has died, resigned office or been removed from office, the provisions of this section shall, subject to any necessary modifications, apply in relation to that permanent trustee or, if he has died, to his executor as they apply to a permanent trustee who has made a final division of the debtor's estate in accordance with the foregoing provisions of this Act.

58 Unclaimed dividends

- (1) Any person, producing evidence of his right, may apply to the Accountant in Bankruptcy to receive a dividend deposited under section 57(1)(a) of this Act, if the application is made not later than 7 years after the date of such deposit.
- (2) If the Accountant in Bankruptcy is satisfied of the applicant's right to the dividend, he shall authorise the appropriate bank or institution to pay to the applicant the amount of that dividend and of any interest which has accrued thereon.
- (3) The Accountant in Bankruptcy shall, at the expiry of 7 years from the date of deposit of any unclaimed dividend or unapplied balance under section 57(1)(a) of this Act, hand over the deposit receipt or other voucher relating to such dividend or balance to the Secretary of State, who shall thereupon be entitled to payment of the amount due, principal and interest, from the bank or institution in which the deposit was made.