



Bankruptcy and Debt Advice (Scotland) Act 2014

2014 asp 11

Review of decisions made by Accountant in Bankruptcy

42 Review of decision about discharge of trustee

(1) In section 57 of the 1985 Act (discharge of trustee)—

(a) after subsection (3), insert—

“(3A) A certificate of discharge granted under subsection (3)—

- (a) must take effect after the expiry of the period mentioned in subsection (3C), and
- (b) has no effect if an application for review is made under subsection (3B).

(3B) The trustee, the debtor or any creditor who has made representations under subsection (2)(a) may apply to the Accountant in Bankruptcy for a review of a determination under subsection (3).

(3C) An application under subsection (3B) must be made before the expiry of the period of 14 days beginning with the day of the determination.

(3D) If an application for a review under subsection (3B) is made, the Accountant in Bankruptcy must—

- (a) take into account any representations made by an interested person before the expiry of the period of 21 days beginning with the day on which the application is made, and
 - (b) confirm, amend or revoke the determination (whether or not issuing a new certificate of discharge) before the expiry of the period of 28 days beginning with the day on which the application is made.”, and
- (b) in subsection (4), for “the issuing of the determination under subsection (3) above” substitute “a decision by the Accountant in Bankruptcy under subsection (3D)(b)”.

(2) In section 58A of the 1985 Act (discharge of Accountant in Bankruptcy)—

Status: This is the original version (as it was originally enacted).

- (a) in subsection (4)(b), after paragraph (ii) insert—
 - “(ia) that an application for a review may be made under subsection (4A)”,
- (b) after subsection (4), insert—
 - “(4A) The debtor or any creditor may apply to the Accountant in Bankruptcy for a review of the discharge of the Accountant in Bankruptcy in respect of the Accountant in Bankruptcy’s acting as trustee.
 - (4B) An application under subsection (4A) must be made before the expiry of the period of 14 days beginning with the day on which notice is sent under subsection (4)(b).
 - (4C) If an application under subsection (4A) is made, the Accountant in Bankruptcy must—
 - (a) take into account any representations made by an interested person before the expiry of the period of 21 days beginning with the day on which the application is made, and
 - (b) confirm or revoke the discharge before the expiry of the period of 28 days beginning with the day on which the application is made.”,
- (c) for subsection (5), substitute—
 - “(5) The debtor or any creditor may appeal to the sheriff against a decision by the Accountant in Bankruptcy under subsection (4C)(b) before the expiry of the period of 14 days beginning with the day on which the decision is made.”, and
- (d) for subsection (6), substitute—
 - “(6) The decision of the sheriff on an appeal under subsection (5) is final.”.