



Bankruptcy (Scotland) Act 2016

2016 asp 21

PART 10

CLAIMS, DIVIDENDS AND DISTRIBUTION ETC.

Submission and adjudication of claims

122 Submission of claims to trustee

- (1) A creditor must submit a claim in accordance with this section to the trustee in the sequestration in order to obtain an adjudication as to that person's entitlement—
 - (a) to vote at a meeting of creditors other than the statutory meeting, or
 - (b) (so far as funds are available) to a dividend out of the debtor's estate in respect of any accounting period.
- (2) Where the claim is by virtue of—
 - (a) paragraph (a) of subsection (1), it must be submitted at or before the meeting,
 - (b) paragraph (b) of that subsection, it must be submitted in accordance with subsection (4).
- (3) But subsection (1) is subject to subsections (4), (7) and (8) and to section 131(6) to (9).
- (4) A creditor must, in order to obtain an adjudication as to the creditor's entitlement (so far as funds are available) to a dividend out of the debtor's estate, submit a claim to the trustee not later than the relevant day.
- (5) The “relevant day”, in relation to a creditor, means—
 - (a) where notice is given to the creditor under section 44(3), the day which is 120 days after the day on which that notice is given,
 - (b) where no such notice is given, the day which is 120 days after the day on which the trustee gives notice to the creditor inviting the submission of claims.
- (6) If a creditor submits a claim to the trustee after the relevant day, the trustee may, in respect of any accounting period, provide an adjudication as to the creditor's entitlement (so far as funds are available) to a dividend out of the debtor's estate if—
 - (a) the claim is submitted not later than 8 weeks before the end of the accounting period, and

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- (b) there were exceptional circumstances which prevented the claim from being submitted before the relevant day.
- (7) Subsection (8) applies as regards a claim submitted by a creditor—
- (a) under section 46 and accepted in whole or in part by the trustee for the purpose of voting at the statutory meeting, or
 - (b) under this section and not rejected in whole.
- (8) The claim is deemed to have been re-submitted for the purpose of obtaining an adjudication as to the creditor's entitlement both to vote at any subsequent meeting and (so far as funds are available) to a dividend in respect of an accounting period or as the case may be of any subsequent accounting period.
- (9) A creditor submits a claim under this section by producing to the trustee—
- (a) a statement of claim in the prescribed form, and
 - (b) an account or voucher (according to the nature of the debt) which constitutes *prima facie* evidence of the debt.
- (10) But the trustee, with the consent of the commissioners if any, may dispense with any requirement under subsection (9) in respect of any debt or of any class of debt.
- (11) Where a creditor (in this subsection referred to as “C”) neither resides, nor has a place of business, in the United Kingdom, the trustee—
- (a) must, if the trustee knows where C does reside or have a place of business and if no notification has been given to C under section 44(3), write to C informing C that C may submit a claim under this section, and
 - (b) may allow C to submit an informal claim in writing.
- (12) Where a creditor has submitted a claim under this section (or under section 46 a statement of claim which has been deemed re-submitted as mentioned in subsection (8)), the creditor may at any time submit a further claim under this section specifying a different amount for the creditor's claim.
- (13) But a secured creditor is not entitled to produce a further claim specifying a different value for the security at any time after the trustee requires the secured creditor to discharge, or convey or assign, the security under paragraph 4(3) of schedule 2.

Commencement Information

II S. 122 in force at 30.11.2016 by S.S.I. 2016/294, reg. 2

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 78(2)(a) words in s. 78(2) renumbered as s. 78(2)(a) by [2019 asp 4 s. 7\(2\)\(a\)](#)
- s. 78(2)(b) and word inserted by [2019 asp 4 s. 7\(2\)\(b\)](#)