



Bankruptcy (Scotland) Act 2016

2016 asp 21

PART 10

CLAIMS, DIVIDENDS AND DISTRIBUTION ETC.

Distribution

131 Distribution in accordance with accounting periods

- (1) The trustee in the sequestration must pay, under section 135(1), a dividend out of the estate in respect of each accounting period—
 - (a) if the funds of the debtor's estate are sufficient, and
 - (b) after making allowance for future contingencies.
- (2) But subsection (1) is subject to the following subsections.
- (3) The trustee may pay—
 - (a) the debts mentioned in paragraphs (a) to (d) of section 129(1), other than the trustee's own remuneration, at any time,
 - (b) the preferred debts at any time but only with the consent of the commissioners or, if there are no commissioners, of AiB.
- (4) If, in respect of an accounting period, the trustee—
 - (a) is not ready to pay a dividend, or
 - (b) considers it would be inappropriate to pay a dividend because the expense of doing so would be disproportionate to the amount of the dividend,the trustee may, with the consent of the commissioners or, if there are no commissioners, of AiB, postpone the payment to a date not later than the time for payment of a dividend in respect of the next accounting period.
- (5) Where a review or appeal is made under section 127 as respects the acceptance or rejection of a creditor's claim, the trustee must, at the time of payment of dividends and until the review or appeal is determined, set aside an amount which would be sufficient, if the determination in the review or appeal were to provide for the creditor's claim being accepted in full, to pay a dividend in respect of that claim.
- (6) Subsection (7) applies where a creditor—

Changes to legislation: Bankruptcy (Scotland) Act 2016, Section 131 is up to date with all changes known to be in force on or before 14 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) has failed to produce evidence in support of the creditor's claim earlier than 8 weeks before the end of an accounting period on being required to do so under section 123(1), and
 - (b) has given a reason for such failure which is acceptable to the trustee.
- (7) The trustee must set aside, for such time as is reasonable to enable the creditor to produce that evidence or any other evidence that will enable the trustee to be satisfied under that section, an amount which would be sufficient, were the claim accepted in full, to pay a dividend in respect of that claim.
- (8) Where a creditor submits a claim to the trustee later than 8 weeks before the end of an accounting period but more than 8 weeks before the end of a subsequent accounting period in respect of which, after making allowance for future contingencies, funds are available for the payment of a dividend, the trustee must, if the trustee accepts the claim in whole or in part, pay to the creditor—
- (a) the same dividend as has, or dividends as have, already been paid to creditors of the same class in respect of any accounting period or periods, and
 - (b) whatever dividend may be payable to the creditor in respect of the subsequent accounting period mentioned above.
- (9) Paragraph (a) of subsection (8) is without prejudice to any dividend which has already been paid.
- (10) In the declaration of, and payment of, a dividend, a payment must not be made more than once by virtue of the same debt.
- (11) Any dividend paid in respect of a claim must be paid to the creditor.

Commencement Information

II S. 131 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\(2\)\(b\)](#)