



# Bankruptcy and Debt Advice (Scotland) Act 2014

2014 asp 11

## *Administration of estate*

### **13 Debtor's bank account**

In section 32 of the 1985 Act (vesting of estate, and dealings of debtor, after sequestration)—

(a) after subsection (5), insert—

“(5A) Where the trustee knows, or becomes aware, of any estate vested in the trustee under section 31 or this section which comprises funds held by a bank, the trustee must serve a notice on the bank—

- (a) informing the bank of the sequestration, and
- (b) specifying reasonable detail in order to allow the bank to identify the debtor and the funds held.

(5B) A notice under subsection (5A)—

- (a) must be in writing and may be sent—
  - (i) by first class post or by using a registered or recorded delivery postal service to the bank,
  - (ii) in some other manner (including by electronic means) which the trustee reasonably considers likely to cause it to be delivered to the bank on the same or next day,
- (b) is deemed to have been received the day after it is sent.”

(b) in subsection (6), after sub-paragraph (i) insert—

“(ia) the trustee is not entitled by virtue of this subsection to any remedy against a bank in respect of a banking transaction entered into before the receipt by the bank of a notice under subsection (5A) (whether or not the bank is aware of the sequestration),”

(c) in subsection (8), after “(9)” insert “and (9C)”,

(d) after subsection (9B), insert—

- “(9C) Subsection (8) does not apply where the dealing is a banking transaction entered into before the receipt by the bank of a notice under subsection (5A) (whether or not the bank is aware of the sequestration).”, and
- (e) after subsection (10), insert—
- “(11) In this section “bank” has the same meaning as “appropriate bank or institution” in section 73(1).”.

#### 14 Submission of claims to trustee

In section 48 of the 1985 Act (submission of claims)—

- (a) in subsection (1)—
- (i) for “subsection (2)” substitute “subsections (1A) and (2)”, and
- (ii) for sub-paragraph (ii) substitute—
- “(ii) in accordance with subsection (1A).”, and
- (b) after subsection (1), insert—
- “(1A) 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.
- (1B) The “relevant day”, in relation to a creditor, means—
- (a) where a notice is given to the creditor under section 21A(2), the day which is 120 days after the day on which the notice is given, or
- (b) where no notice is given to the creditor under that section, the day which is 120 days after the day on which the trustee gives notice to that creditor inviting the submission of claims.
- (1C) 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
- (b) there were exceptional circumstances which prevented the claim from being submitted before the relevant day.”.

#### 15 First accounting period

In section 52 of the 1985 Act (estate to be distributed in respect of accounting periods)

- (a) in subsection (2)(a) after “months” insert “or such shorter period as may be agreed or determined in accordance with subsection (2ZB), either period”,
- (b) in subsection (2ZA) after “awarded” insert “or such shorter period as may be agreed or determined in accordance with subsection (2ZB)”, and
- (c) after subsection (2ZA) insert—

“(2ZB) This subsection applies where the trustee considers that the funds of the debtor’s estate are sufficient to pay a dividend in accordance with subsection (3) in respect of—

- (a) in the case where the trustee is the Accountant in Bankruptcy, a shorter period of not less than 6 months determined by the Accountant in Bankruptcy,
- (b) in any other case, a shorter period of not less than 6 months agreed—
  - (i) between the trustee and the commissioners, or
  - (ii) if there are no commissioners, between the trustee and the Accountant in Bankruptcy.”.

## **16 Vesting of estate after sequestration**

- (1) In section 31(5A) of the 1985 Act (reinvestment of non-vested contingent interest), for “on which the debtor’s discharge becomes effective” substitute “which is 4 years after the date of sequestration”.
- (2) In section 32(10) of the 1985 Act (meaning of “relevant date” for purposes of vesting etc.), for “on which the debtor’s discharge becomes effective” substitute “which is 4 years after the date of sequestration”.