



Bankruptcy (Scotland) Act 1985 (repealed)

1985 CHAPTER 66

Submission and adjudication of claims

48 [F1Submission of claims to trustee]

- (1) Subject to subsection (2) below and subsections (8) and (9) of section 52 of this Act, a creditor in order to obtain an adjudication as to his 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,
- shall submit a claim in accordance with this section to the ^{F2} . . . trustee respectively—
- (i) at or before the meeting; or
 - (ii) not later than 8 weeks before the end of the accounting period.
- (2) A claim submitted by a creditor—
- (a) under section 22 of this Act and accepted in whole or in part by the ^{F3} . . . trustee for the purpose of voting at the statutory meeting; or
 - (b) under this section [F4which has not been rejected in whole],
- shall be deemed to have been re-submitted for the purpose of obtaining an adjudication as to his 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, any subsequent accounting period.
- (3) Subsections (2) and (3) of section 22 of this Act shall apply for the purposes of this section but as if in the proviso to subsection (2) [F5 after the word "trustee" there were inserted the words "[with the consent of the commissioners, if any"]^{F6} . . .
- (4) A creditor who has submitted a claim under this section (or under section 22 of this Act, a statement of claim which has been deemed re-submitted as mentioned in subsection (2) above) may at any time submit a further claim under this section specifying a different amount for his claim:

Status: Point in time view as at 01/01/2015.

Changes to legislation: Bankruptcy (Scotland) Act 1985 (repealed), Cross Heading: Submission and adjudication of claims is up to date with all changes known to be in force on or before 15 June 2024.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)

Provided that a secured creditor shall not be entitled to produce a further claim specifying a different value for the security at any time after the ^{F7} . . . trustee requires the creditor to discharge, or convey or assign, the security under paragraph 5(2) of Schedule 1 to this Act.

(5) The ^{F8} . . . trustee, for the purpose of satisfying himself as to the validity or amount of a claim submitted by a creditor under this section, may require—

- (a) the creditor to produce further evidence; or
- (b) any other person who he believes can produce relevant evidence, to produce such evidence,

and, if the creditor or other person refuses or delays to do so, the ^{F8} . . . trustee may apply to the sheriff for an order requiring the creditor or other person to attend for his private examination before the sheriff.

(6) Sections 44(2) and (3) and 47(1) of this Act shall apply, subject to any necessary modifications, to the examination of the creditor or other person as they apply to the examination of a relevant person; and references in this subsection and subsection (5) above to a creditor in a case where the creditor is an entity mentioned in section 6(1) of this Act shall be construed, unless the context otherwise requires, as references to a person representing the entity.

(7) Subsections (5) to (10) of section 22 of this Act shall apply for the purposes of this section but as if—

- (a) ^{F9}
- (b) in subsection (7) for the words ^{F10} . . . “keep a record of it” there were substituted ^{F10} . . . the words ^{F10} . . . “make an insertion relating thereto in the sederunt book”.

(8) At any private examination under subsection (5) above, a solicitor or counsel may act on behalf of the ^{F11} . . . trustee or he may appear himself.

Textual Amendments

- F1** S. 48 heading substituted (1.4.2008) by virtue of the [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 36, 227(3), **Sch. 1 para. 42(c)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F2** Word in s. 48(1) repealed (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 226, 227(3), **Sch. 6 Pt. 1** (with s. 223); S.S.I. 2008/115, **art. 3(2)(3)**, Sch. 2 (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F3** Word in s. 48(2)(a) repealed (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 226, 227(3), **Sch. 6 Pt. 1** (with s. 223); S.S.I. 2008/115, **art. 3(2)(3)**, Sch. 2 (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F4** Words in s. 48(2)(b) substituted (31.3.2007) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 36, 227(3), **Sch. 1 para. 42(a)** (with savings in s. 223); S.S.I. 2007/82, **art. 4(d)**
- F5** Words in s. 48(3) substituted (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 36, 227(3), **Sch. 1 para. 42(b)** (with s. 223); S.S.I. 2008/115, **art. 3(1)(i)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F6** Words in s. 48(3) repealed (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 226, 227(3), **Sch. 6 Pt. 1** (with s. 223); S.S.I. 2008/115, **art. 3(2)(3)**, Sch. 2 (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))

Status: Point in time view as at 01/01/2015.

Changes to legislation: Bankruptcy (Scotland) Act 1985 (repealed), Cross Heading: Submission and adjudication of claims is up to date with all changes known to be in force on or before 15 June 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)

- F7** Word in s. 48(4) repealed (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 226, 227(3), **Sch. 6 Pt. 1** (with s. 223); S.S.I. 2008/115, **art. 3(2)(3)**, Sch. 2 (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F8** Word in s. 48(5) repealed (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 226, 227(3), **Sch. 6 Pt. 1** (with s. 223); S.S.I. 2008/115, **art. 3(2)(3)**, Sch. 2 (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F9** S. 48(7)(a) repealed (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 226, 227(3), **Sch. 6 Pt. 1** (with s. 223); S.S.I. 2008/115, **art. 3(2)(3)**, Sch. 2 (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F10** Words in s. 48(7)(b) repealed (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 226, 227(3), **Sch. 6 Pt. 1** (with s. 223); S.S.I. 2008/115, **art. 3(2)(3)**, Sch. 2 (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F11** Word in s. 48(8) repealed (1.4.2008) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 226, 227(3), **Sch. 6 Pt. 1** (with s. 223); S.S.I. 2008/115, **art. 3(2)(3)**, Sch. 2 (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))

Modifications etc. (not altering text)

- C1** S. 48 restricted (S.) (31.3.1996) by 1995 c. 20, s. 110(1), **Sch. 4 para. 1(2)**; S.I. 1996/517, **art. 3(2)** (which 1995 c. 20 was repealed (1.4.1996) by 1995 c. 40, ss. 6, 7(2), Sch. 3 para. 16(3), Sch. 5 (with Sch. 3 paras. 1, 3))
S. 48 restricted (S.) (17.12.2001) by 2001 asp 13, s. 20, **Sch. 6 para. 8(2)** (with s. 29); S.S.I. 2001/456, **art. 2**
- C2** S. 48(5)(6)(8) applied (with modifications) by S.I. 1986/1915, Rules 4.16(1)(b), 7.9(4) and by Rule 2.41(2) (as substituted (15.9.2003) by The Insolvency (Scotland) Amendment Rules 2003 (S.I. 2003/2111), Rule 3, **Sch. 1 Pt. 1**)
- C3** S. 48(5)(6)(8) applied (with modifications) (14.11.2011) by The Investment Bank Special Administration (Scotland) Rules 2011 (S. I. 2011/2262), **rule 127**

49 Adjudication of claims.

- (1) At the commencement of every meeting of creditors (other than the statutory meeting), the ^{F12}. . . trustee shall, for the purposes of section 50 of this Act so far as it relates to voting at that meeting, accept or reject the claim of each creditor.
- (2) Where funds are available for payment of a dividend out of the debtor's estate in respect of an accounting period, the ^{F12}. . . trustee for the purpose of determining who is entitled to such a dividend shall, not later than 4 weeks before the end of the period, accept or reject every claim submitted or deemed to have been re-submitted to him under this Act; and shall at the same time make a decision on any matter requiring to be specified under paragraph (a) or (b) of subsection (5) below.
- [^{F13}(2A) On accepting or rejecting, under subsection (2) above, every claim submitted or deemed to have been re-submitted, the trustee shall, as soon as is reasonably practicable, send a list of every claim so accepted or rejected (including the amount of each claim and whether he has accepted or rejected it) to—
- (a) the debtor; and
- (b) every creditor known to the trustee.]
- (3) If the amount of a claim is stated in foreign currency the ^{F12}. . . trustee in adjudicating on the claim under subsection (1) or (2) above shall convert the amount into sterling, in such manner as may be prescribed, at the rate of exchange prevailing at the close of business on the date of sequestration.

Status: Point in time view as at 01/01/2015.

Changes to legislation: Bankruptcy (Scotland) Act 1985 (repealed), Cross Heading: Submission and adjudication of claims is up to date with all changes known to be in force on or before 15 June 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)

- (4) Where the ^{F12} . . . trustee rejects a claim, he shall forthwith notify the creditor giving reasons for the rejection.
- (5) Where the ^{F12} . . . trustee accepts or rejects a claim, he shall record in the sederunt book his decision on the claim specifying—
- (a) the amount of the claim accepted by him,
 - (b) the category of debt, and the value of any security, as decided by him, and
 - (c) if he is rejecting the claim, his reasons therefor.
- (6) The debtor [^{F14}(subject to subsection (6A) below)] or any creditor may, if dissatisfied with the acceptance or rejection of any claim (or, in relation to such acceptance or rejection, with a decision in respect of any matter requiring to be specified under subsection (5)(a) or (b) above), appeal therefrom to the sheriff—
- (a) if the acceptance or rejection is under subsection (1) above, within 2 weeks of that acceptance or rejection;
 - (b) if the acceptance or rejection is under subsection (2) above, not later than 2 weeks before the end of the accounting period,
- and the ^{F12} . . . trustee shall record the sheriff's decision in the sederunt book.
- [^{F15}(6A) A debtor may appeal under subsection (6) above if, and only if, he satisfies the sheriff that he has, or is likely to have, a pecuniary interest in the outcome of the appeal.]
- (7) Any reference in this section to the acceptance or rejection of a claim shall be construed as a reference to the acceptance or rejection of the claim in whole or in part.

Textual Amendments

- F12** Words in s. 49 repealed (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007](#) (asp 3), ss. 226, 227(3), **Sch. 6 Pt. 1** (with s. 223); S.S.I. 2008/115, **art. 3(2)(3)**, Sch. 2 (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F13** S. 49(2A) inserted (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007](#) (asp 3), ss. **8(3)**, 227(3) (with s. 223); S.S.I. 2008/115, **art. 3(1)(a)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F14** Words in s. 49(6) inserted (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007](#) (asp 3), ss. **31(1)(a)**, 227(3) (with s. 223); S.S.I. 2008/115, **art. 3(1)(a)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))
- F15** S. 49(6A) inserted (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007](#) (asp 3), ss. **31(1)(b)**, 227(3) (with s. 223); S.S.I. 2008/115, **art. 3(1)(a)** (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))

Modifications etc. (not altering text)

- C4** S. 49 applied (with modifications) by [S.I. 1986/1915](#), [Rules 4.16\(1\)\(c\)](#) (as amended by [S.I. 2003/3226](#), **reg. 15**), 7.9(4) and by [Rule 2.41\(2\)](#) (as substituted (15.9.2003) by [S.I. 2003/2111](#), [Rule 3](#), **Sch. 1 Pt. 1**)
- C5** S. 49 applied (with modifications) (14.11.2011) by [The Investment Bank Special Administration \(Scotland\) Rules 2011](#) (S. I. 2011/2262), **rule 127**

Status:

Point in time view as at 01/01/2015.

Changes to legislation:

Bankruptcy (Scotland) Act 1985 (repealed), Cross Heading: Submission and adjudication of claims is up to date with all changes known to be in force on or before 15 June 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.