Status: Point in time view as at 01/04/1993. This version of this provision has been superseded.
Changes to legislation: Bankruptcy (Scotland) Act 1985 (repealed), Section 23A is up to date with all changes known to be in force on or before 25 June 2024.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)

Bankruptcy (Scotland) Act 1985 (repealed)

1985 CHAPTER 66

Statutory meeting of creditors and confirmation of permanent trustee

[23A ^{F1}**Summary administration.**

(1) Where an application is made to the court under this Act for the grant of a certificate for the summary administration of the sequestration of the debtor's estate, the court shall, subject to subsection (9) below, grant such a certificate where it appears to the court that—

    (a) the aggregate amount of the debtor's liabilities does not exceed £20,000; and

    (b) the aggregate amount of the debtor's assets does not exceed £2,000.

(2) In calculating—

    (a) the aggregate amount of the debtor's liabilities under paragraph (a) of subsection (1) above, no account shall be taken of any debt to the extent that a creditor holds a security for that debt; and

    (b) the aggregate amount of the debtor's assets under paragraph (b) of that subsection, no account shall be taken of—

        (i) any heritable property of his; or

        (ii) any property of his which, under section 33(1) of this Act, does not vest in the permanent trustee.

(3) For the purposes of an application under subsection (1) above made by—

    (a) the Accountant in Bankruptcy; or

    (b) an interim trustee who is not the Accountant in Bankruptcy,

a certificate by the Accountant in Bankruptcy or, as the case may be, the interim trustee as to the aggregate amounts of the debtor's liabilities and assets shall be sufficient evidence of such aggregate amounts.

(4) Where a certificate for the summary administration of the sequestration of the debtor's estate is granted—

    (a)   in any case where the application for the certificate was made by the Accountant in Bankruptcy, section 25A of this Act; and

    (b)   in every case, Schedule 2A to this Act (which modifies the duties of the permanent trustee),

shall apply to the sequestration.

(5) The debtor, a creditor, the permanent trustee or the Accountant in Bankruptcy may, at any time, apply to the sheriff to withdraw the certificate for the summary administration of the sequestration of the debtor's estate.

(6) Where an application is made under subsection (5) above by a person who is not the permanent trustee, the applicant shall send a copy of the application to the permanent trustee who shall prepare and present to the sheriff a report on all of the circumstances of the sequestration.

(7) If it appears to the sheriff, on considering an application under subsection (5) above and any report under subsection (6) above, that it is no longer appropriate for the sequestration to be subject to summary administration, he shall withdraw the certificate and the sequestration of the estate shall proceed as if the certificate had not been granted.

(8) The sheriff clerk shall send to the permanent trustee and, where he is not the permanent trustee, the Accountant in Bankruptcy a copy of the sheriff's decision on any application under subsection (5) above.

(9) The court shall not grant an application as mentioned in subsection (1) above—

    (a)   in any case where the application is made by the Accountant in Bankruptcy and the court has appointed as interim trustee a person who is not the Accountant in Bankruptcy; or

    (b)   in any other case—

        (i) where a person has been elected as permanent trustee, before the sheriff has confirmed the election of that person as permanent trustee; or

        (ii) where no such person has been elected, unless the court at the same time appoints the interim trustee as permanent trustee.**]**

Textual Amendments

F1   S. 23A inserted (1.4.1993, subject to savings in arts. 4, 5 of S.I. 1993/438) by 1993 c. 6, **s.6** (with s. 12(6)); S.I. 1993/438, **art.3**

Status:
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