



Bankruptcy (Scotland) Act 1985 (repealed)

1985 CHAPTER 66

Distribution of debtor's estate

53 Procedure after end of accounting period.

- (1) Within 2 weeks after the end of an accounting period, the permanent trustee shall in respect of that period submit to the commissioners or, if there are no commissioners, to the Accountant in Bankruptcy—
- (a) his accounts of his intromissions with the debtor's estate for audit and, where funds are available after making allowance for contingencies, a scheme of division of the divisible funds; and
 - (b) a claim for the outlays reasonably incurred by him and for his remuneration; and, where the said documents are submitted to the commissioners, he shall send a copy of them to the Accountant in Bankruptcy.
- [^{F1}(2) Subject to subsection (2A) below, all accounts in respect of legal services incurred by the permanent trustee shall, before payment thereof by him, be submitted for taxation to the auditor of the court before which the sequestration is pending.
- (2A) Where—
- (a) any such account has been agreed between the permanent trustee and the person entitled to payment in respect of that account (in this subsection referred to as "the payee");
 - (b) the permanent trustee is not an associate of the payee; and
 - (c) the commissioners have not determined that the account should be submitted for taxation,
- the permanent trustee may pay such account without submitting it for taxation.]
- (3) Within 6 weeks after the end of an accounting period—
- (a) the commissioners or, as the case may be, the Accountant in Bankruptcy ^{F2} . . .
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Status: Point in time view as at 01/12/1993. This version of this provision has been superseded.

Changes to legislation: Bankruptcy (Scotland) Act 1985 (repealed), Section 53 is up to date with all changes known to be in force on or before 14 July 2024.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)

- (i) [^{F3}may]audit the accounts; and
 - (ii) [^{F3}shall]issue a determination fixing the amount of the outlays and the remuneration payable to the permanent trustee; and
 - (b) the permanent trustee shall make the audited accounts, scheme of division and the said determination available for inspection by the debtor and the creditors.
- (4) The basis for fixing the amount of the remuneration payable to the permanent trustee may be a commission calculated by reference to the value of the debtor's estate which has been realised by the permanent trustee, but there shall in any event be taken into account—
- (a) the work which, having regard to that value, was reasonably undertaken by him; and
 - (b) the extent of his responsibilities in administering the debtor's estate.
- (5) If fixing the amount of such remuneration in respect of [^{F4}any] accounting period, the commissioners or, as the case may be, the Accountant in Bankruptcy may take into account any adjustment which the commissioners or the Accountant in Bankruptcy may wish to make in the amount of the remuneration fixed in respect of any earlier accounting period.
- (6) Not later than 8 weeks after the end of an accounting period, the permanent trustee, the debtor or any creditor may appeal against a determination issued under subsection (3) (a)(i) above—
- (a) where it is a determination of the commissioners, to the Accountant in Bankruptcy; and
 - (b) where it is a determination of the Accountant in Bankruptcy, to the sheriff;
- and the determination of the Accountant in Bankruptcy under paragraph (a) above shall be appealable to the sheriff [^{F5}; and the decision of the sheriff on such an appeal shall be final.]
- (7) On the expiry of the period within which an appeal may be taken under subsection (6) above or, if an appeal is so taken, on the final determination of the last such appeal, the permanent trustee shall pay to the creditors their dividends in accordance with the scheme of division.
- (8) Any dividend—
- (a) allocated to a creditor which is not cashed or uplifted; or
 - (b) dependent on a claim in respect of which an amount has been set aside under subsection (7) or (8) of section 52 of this Act,
- shall be deposited by the permanent trustee in an appropriate bank or institution.
- (9) If a creditor's claim is revalued, the permanent trustee may—
- (a) in paying any dividend to that creditor, make such adjustment to it as he considers necessary to take account of that revaluation; or
 - (b) require the creditor to repay to him the whole or part of a dividend already paid to him.
- (10) The permanent trustee shall insert in the sederunt book the audited accounts, the scheme of division and the final determination in relation to the permanent trustee's outlays and remuneration.

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Textual Amendments

- F1** S. 53(2)(2A) substituted for s. 53(2) (1.4.1993, subject to savings in arts. 4,5 of S.I. 1993/438) by 1993 c. 6, s. 11(3), **Sch. 1 para. 22(2)** (with s. 12(6)); S.I. 1993/438, **art.3**
- F2** Word "shall" in s. 53(3)(a) repealed (1.4.1993, subject to savings in arts. 4,5 of S.I. 1993/438) by 1993 c. 6, s. 11(4), **Sch.2** (with s. 12(6)); S.I. 1993/438, **art.3**
- F3** Words in s. 53(a)(i)(ii) inserted (1.4.1993, subject to savings in arts. 4,5 of S.I. 1993/438) by 1993 c. 6, s. 11(3), **Sch. 1 para. 22(3)** (with s. 12(6)); S.I. 1993/438, **art.3**
- F4** Words in s. 53(5) substituted (1.4.1993, subject to savings in arts. 4, 5 of S.I. 1993/438) by 1993 c. 6, s. 11(3), **Sch. 1 para. 22(4)** (with s. 12(6)); S.I. 1993/438, **art.3**
- F5** Words at the end of s. 53(6) added (18.2.1993) by 1993 c. 6, s. 11(3), **Sch. 1 para. 22(5)**

Modifications etc. (not altering text)

- C1** S. 53 applied with modifications by S.I. 1986/1915, Rule 4.32.(1), 68 and by Rule 2.41(2)-(4) (as substituted (15.9.2003) by S.I. 2003/2111, Rule 3, **Sch. 1 Pt. 1**)
- S. 53 modified (18.2.1993) by 1993 c. 6, s. 9(1)(2)

Status:

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