



Bankruptcy (Scotland) Act 2016

2016 asp 21

PART 11

DISCHARGE

Discharge of debtor

137 Discharge of debtor where Accountant in Bankruptcy not trustee

- (1) This section applies where AiB is not the trustee.
- (2) AiB may, by granting a certificate of discharge in the prescribed form, discharge the debtor at any time after the date which is 12 months after the date on which sequestration is awarded.
- (3) Before deciding whether to discharge the debtor under subsection (2), AiB must—
 - (a) consider the report provided by the trustee under subsection (4), and
 - (b) take into account any representations received during the 28 days mentioned in subsection (6)(b).
- (4) The trustee must prepare and send a report to AiB—
 - (a) without delay after the date which is 10 months after the date on which sequestration is awarded, and
 - (b) if the debtor is not otherwise discharged, before sending to AiB the documentation referred to in section 148(1)(b)(i).
- (5) The report must include—
 - (a) information about—
 - (i) the debtor's assets, liabilities, financial affairs and business affairs,
 - (ii) the debtor's conduct in relation to those assets, liabilities and affairs,
 - (iii) the sequestration, and
 - (iv) the debtor's conduct in the course of the sequestration,
 - (b) a statement of whether, in the opinion of the trustee, the debtor has as at the date of the report—
 - (i) complied with any debtor contribution order,
 - (ii) co-operated with the trustee in accordance with section 215,

Changes to legislation: Bankruptcy (Scotland) Act 2016, Section 137 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](#)

- (iii) complied with the statement of undertakings,
 - (iv) made a full and fair surrender of the debtor's estate,
 - (v) made a full disclosure of all claims which the debtor is entitled to make against any other persons, and
 - (vi) delivered to the trustee every document under the debtor's control relating to the debtor's estate, financial affairs or business affairs, and
 - (c) a statement of whether the trustee has, as at the date that the report is sent to AiB, carried out all of the trustee's functions in accordance with section 50.
- (6) The trustee must, at the same time as sending a report to AiB under this section, give to the debtor and to every creditor known to the trustee—
- (a) a copy of the report, and
 - (b) a notice informing the recipient that the recipient has a right to make representations to AiB in relation to the report within 28 days beginning with the day on which the notice is given.
- (7) A discharge under this section is not to take effect before the expiry of 14 days beginning with the day of notification of the decision.

Commencement Information

II [S. 137](#) 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\(2\)\(b\)](#)