



# Bankruptcy (Scotland) Act 2016

## 2016 asp 21

### PART 11

#### DISCHARGE

##### *Discharge of debtor*

#### **141      Deferral of discharge where debtor cannot be traced**

- (1) Subsection (2) applies where the trustee—
  - (a) having made reasonable inquiries, is unable to ascertain the whereabouts of the debtor, and
  - (b) as a result is unable to carry out the trustee's functions in accordance with section 50.
- (2) The trustee must—
  - (a) notify the debtor by sending to the last known address of the debtor a deferral notice in the prescribed form,
  - (b) give a deferral notice to every creditor known to the trustee, and
  - (c) where the trustee is not AiB, apply in the prescribed form to AiB for a deferral.
- (3) Any deferral application under subsection (2)(c) must be made by the trustee—
  - (a) no earlier than the date which is 8 months after the date on which sequestration is awarded, and
  - (b) no later than the date which is 10 months after the date on which sequestration is awarded.
- (4) After receiving a deferral application, AiB must—
  - (a) take into account any representations made by an interested person within 14 days beginning with the day on which the application is made, and
  - (b) if satisfied of the matters mentioned in subsection (5), issue a certificate deferring discharge indefinitely.
- (5) The matters are—
  - (a) that the trustee is unable to ascertain the whereabouts of the debtor, and

---

*Status: This is the original version (as it was originally enacted).*

---

- (b) it would not be reasonably practicable for the trustee to continue to search for the debtor.
- (6) Where AiB is the trustee and has given a deferral notice in accordance with subsection (2)(b), AiB must—
  - (a) take into account any representations made by an interested person within 14 days beginning with the day on which the deferral notice is given, and
  - (b) if satisfied that it would not be reasonably practicable to continue to search for the debtor, issue a certificate deferring discharge indefinitely.
- (7) Where a certificate is issued under subsection (4)(b) or (6)(b), AiB must make an appropriate entry in the register of insolvencies.