



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,

Status: This is the original version (as it was originally enacted).

- (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.