



# Bankruptcy (Scotland) Act 2016

## 2016 asp 21

### PART 12

#### ASSETS DISCOVERED AFTER DISCHARGE OF TRUSTEE

#### **152 Assets discovered after discharge of trustee: appointment of trustee**

- (1) This section applies where—
  - (a) the trustee is discharged—
    - (i) under section 148,
    - (ii) by virtue of section 149, or
    - (iii) under section 151, and
  - (b) after that discharge but within 5 years beginning with the date on which sequestration is awarded, the trustee or AiB becomes aware of any newly identified estate with a value of not less than £1,000 (or such other sum as may be prescribed).
- (2) In this section, “newly identified estate” means any part of the debtor’s estate which—
  - (a) vested in the trustee in accordance with section 78 or 86, and
  - (b) was not, before the trustee was discharged, known to the trustee.
- (3) AiB may—
  - (a) in a case where the trustee was discharged under section 148—
    - (i) on the application of the trustee who was discharged, reappoint that person as trustee on the debtor’s estate, or
    - (ii) appoint AiB as trustee on that estate, or
  - (b) in a case where AiB was discharged under section 151, reappoint AiB as trustee on that estate.
- (4) AiB may make an appointment or reappointment under subsection (3) only if, in the opinion of AiB, the value of the newly identified estate is likely to exceed the costs of—
  - (a) the appointment or reappointment, and
  - (b) the recovery, management, realisation and distribution of the newly identified estate.

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*Status: This is the original version (as it was originally enacted).*

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- (5) Where the trustee was discharged under section 148 and applies for reappointment under subsection (3)(a)(i), the discharged trustee must provide to AiB the information mentioned in subsection (8)(a) to (c).
- (6) Where the trustee was discharged under section 148 and does not apply for reappointment under subsection (3)(a)(i), the discharged trustee must—
  - (a) provide AiB with details of any newly identified estate that the discharged trustee becomes aware of, where that estate has a value not less than the value mentioned in subsection (1), and
  - (b) if requested by AiB, provide AiB with the information mentioned in subsection (8)(b) and (c).
- (7) Where AiB was discharged under section 151, AiB must record and consider the information mentioned in subsection (8).
- (8) The information is—
  - (a) the estimated value of the newly identified estate,
  - (b) the reason why the newly identified estate forms part of the debtor's estate,
  - (c) the reason why the newly identified estate was not recovered,
  - (d) the estimated outlays and remuneration of the trustee following an appointment or reappointment under subsection (3), and
  - (e) the likely distribution under section 129 following such an appointment or reappointment.
- (9) This section is without prejudice to any other right to take action following the discharge of the trustee.

### **153      Assets discovered after discharge of trustee: notice**

- (1) AiB must notify the debtor and any other person AiB considers to have an interest where—
  - (a) an application is made under section 152(3)(a)(i), or
  - (b) AiB proposes to make an appointment or reappointment under section 152(3)(a)(ii) or (b).
- (2) A notice under subsection (1) must inform the recipient that the recipient has a right to make representations to AiB, within 14 days beginning with the day on which the notice is given, in relation to the application or the proposed appointment or reappointment.
- (3) Before making an appointment or reappointment under section 152, AiB must take into account any representations made by an interested person.
- (4) If AiB makes an appointment or reappointment under section 152, AiB must as soon as is practicable notify the debtor of the appointment or reappointment.
- (5) Any notice under subsection (4) must include information in relation to the debtor's duty, under section 215, to co-operate with the trustee.

**154      Assets discovered after discharge of trustee: appeal**

Where AiB makes or refuses to make an appointment or reappointment under section 152, an interested person may, within 14 days after AiB's decision, appeal to the sheriff against that decision.