



Bankruptcy (Scotland) Act 2016

2016 asp 21

PART 11

DISCHARGE

Discharge of debtor

138 Discharge of debtor where Accountant in Bankruptcy trustee

- (1) This section applies where AiB is 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) AiB must, as soon as practicable after the date which is 12 months after the date on which sequestration is awarded—
 - (a) decide whether to discharge the debtor under subsection (2),
 - (b) notify the debtor and every creditor known to AiB of that decision, and
 - (c) send a report to those persons.
- (4) The report must give an account of—
 - (a) the debtor's assets, liabilities, financial affairs and business affairs,
 - (b) the debtor's conduct in relation to those assets, liabilities and affairs,
 - (c) the sequestration, and
 - (d) the debtor's conduct in the course of the sequestration, including compliance with the statement of undertakings.
- (5) Subsection (6) applies where—
 - (a) AiB refuses to discharge the debtor under subsection (2), and
 - (b) the debtor is not otherwise discharged.
- (6) AiB must, as soon as practicable after the date which is 12 months after the date of the refusal—
 - (a) decide whether to discharge or refuse to discharge the debtor under subsection (2),

Changes to legislation: Bankruptcy (Scotland) Act 2016, Section 138 is up to date with all changes known to be in force on or before 03 June 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](#)

- (b) notify the debtor and every creditor known to AiB of that decision, and
 - (c) send a report giving an account of the matters mentioned in subsection (4) to those persons.
- (7) Discharge under this section is not to take effect before the expiry of 14 days beginning with the day of notification of the decision to discharge.

Commencement Information

II [S. 138](#) 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\(2\)\(b\)](#)