



Bankruptcy (Scotland) Act 2016

2016 asp 21

PART 11

DISCHARGE

Discharge of trustee

148 Discharge of trustee

- (1) After the trustee in the sequestration has made a final division of the debtor's estate and has inserted the trustee's final audited accounts in the sederunt book, the trustee—
 - (a) must pay to AiB any unclaimed dividends and unapplied balances,
 - (b) on that being done—
 - (i) must send to AiB the sederunt book (in the format specified by subsection (2)) and a copy of the audited accounts, and
 - (ii) may at the same time apply to AiB for a certificate of discharge.
- (2) The trustee must send an electronic version of the sederunt book in such format as AiB may from time to time direct.
- (3) AiB must deposit any unclaimed dividends and any unapplied balances paid to AiB under subsection (1)(a) in an appropriate bank or institution.
- (4) The trustee must send, to the debtor and to all the creditors known to the trustee, notice of any application under subsection (1)(b)(ii) and must inform the debtor and such creditors—
 - (a) that written representations relating to the application may be made by them to AiB within 14 days after the notification,
 - (b) that the sederunt book is available for inspection following a request made to AiB and contains the audited accounts of, and scheme of division in, the sequestration, and
 - (c) of the effect mentioned in subsection (7).
- (5) On the expiry of the 14 days mentioned in subsection (4)(a), AiB, after examining the documents sent to AiB and considering any representations duly made to AiB, must—
 - (a) grant or refuse to grant the certificate of discharge, and

Status: This is the original version (as it was originally enacted).

- (b) notify accordingly—
 - (i) the trustee,
 - (ii) the debtor, and
 - (iii) all creditors who made such representations.
- (6) Any certificate of discharge granted under subsection (5)—
 - (a) must take effect after the expiry of the 14 days mentioned in section 149(2), and
 - (b) has no effect if an application for review is made under section 149(1).
- (7) The grant of a certificate of discharge under this section has the effect of discharging the trustee from all liability (other than any liability arising from fraud)—
 - (a) to the debtor, or
 - (b) to the creditors,in respect of any act or omission of the trustee in exercising the functions conferred on the trustee by this Act (including, where the trustee was also the interim trustee, the functions of interim trustee).
- (8) This section and section 149 do not apply in any case where AiB is trustee.