

Bankruptcy and Diligence (Scotland) Bill — Stage 2

After section 3

Murdo Fraser

1 After section 3, insert—

<When sequestration is awarded: number of days to serve petition

- (1) Section 22 (when sequestration is awarded) of the Bankruptcy (Scotland) Act 2016 is modified as follows.
- (2) In subsection (4)(b), for “14” substitute “21”.>

After section 5

Murdo Fraser

2 After section 5, insert—

<Discharge of trustee

Discharge of trustee

- (1) The Bankruptcy (Scotland) Act 2016 is modified as follows.
- (2) In section 142 (debtor not traced: new trustee)—
 - (a) in subsection (2), for “for authority to resign office” substitute “to be discharged as trustee”,
 - (b) in subsection (6)(c)—
 - (i) the word “not” is repealed,
 - (ii) the words “, other than by a claim in the final distribution of the debtor's estate,” is repealed. >

Murdo Fraser

3 After section 5, insert—

<Discharge of trustee

Debtor not co-operative: new trustee

- (1) The Bankruptcy (Scotland) Act 2016 is modified as follows.
- (2) After section 144, insert—

“144A Debtor not co-operative: new trustee

 - (1) This section applies where—
 - (a) the debtor has not co-operated with the trustee,
 - (b) action under section 215 has been exhausted or is not appropriate, and
 - (c) the trustee, as a result, is unable to carry out the trustee’s functions in accordance with section 50.
 - (2) The trustee may apply to AiB, in the prescribed form, to be discharged as trustee.

- (3) An application under subsection (2) must include details of every creditor known to the trustee.
- (4) Where an application is made under subsection (2), AiB must issue to the trustee who made the application a notice in the prescribed form granting the application.
- (5) Where a notice is issued under subsection (4)—
 - (a) AiB is deemed to be the trustee,
 - (b) AiB must notify every creditor known to AiB that AiB is deemed to be the trustee,
 - (c) the former trustee is entitled to recover outlays and remuneration payable under sections 132 and 133, and
 - (d) subsections (9) to (13) of section 69 apply in relation to the appointment of AiB as the new trustee as they apply in relation to the appointment of a new trustee under that section.”.>

Section 6

Murdo Fraser

- 4 In section 6, leave out subsection (2), and insert—
 - <() In section 73G (arrestee’s duty of disclosure), after subsection (5), insert—
 - “(5A) Subsection (5B) applies where—
 - (a) no property is attached, and
 - (b) the arrestee receives a request for information from a creditor in relation to a warrant not granted under summary warrant procedure.
 - (5B) The arrestee must, as soon as reasonably practicable after the request is received, send to the creditor in (or as nearly as may be in) the form prescribed information about the reason why no property is attached (for example, the arrestee does not hold funds standing to the credit of the debtor, or does hold such funds but the sum held is less than sum mentioned in section 73F(3)(a)).”.>

Section 7

Murdo Fraser

- 5 In section 7, page 5, line 22, after <nil,> insert <and,
 - <(c) the person receives a request from a relevant person for information, >

Murdo Fraser

- 6 In section 7, page 5, line 23, leave out <within 21 days of the order or schedule being served> and insert <as soon as is reasonably practicable following receipt of the request>