



Bankruptcy (Scotland) Act 2016

2016 asp 21

PART 14

VOLUNTARY TRUST DEEDS FOR CREDITORS

Conditions for protected status

167 Statements in and advice regarding trust deed

- (1) The trust deed must state—
 - (a) that, subject to any exclusion mentioned in paragraph (b)(i) of the trust deed definition, all of the debtor's estate (other than property listed in section 88(1) or which would be excluded under any other provision of this Act or of any other enactment from vesting in the trustee of a sequestrated estate) is conveyed to the trustee, and
 - (b) that the debtor agrees to convey to the trustee, for the benefit of creditors generally, any estate (wherever situated) which—
 - (i) is acquired by the debtor during the 4 years beginning with the date on which the trust deed is granted, and
 - (ii) would have been conveyed to the trustee by virtue of paragraph (a) had it been part of the debtor's estate on the date on which the trust deed was granted.
- (2) Where the debtor's dwellinghouse, or part of the debtor's dwellinghouse, is excluded as mentioned in paragraph (b)(i) of the trust deed definition from the estate conveyed to the trustee, the trust deed must also include details—
 - (a) of any secured creditor who has agreed not to claim under the trust deed for any of the debt in respect of which the security is held, and
 - (b) of that debt.
- (3) Before the debtor grants the trust deed—
 - (a) the trustee must advise the debtor that granting the deed may result—
 - (i) in the debtor's estate being sequestrated,
 - (ii) in the debtor's being refused credit, whether before or after the debtor's discharge under section 184,

Changes to legislation: Bankruptcy (Scotland) Act 2016, Section 167 is up to date with all changes known to be in force on or before 14 April 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](#)

- (iii) subject to any exclusion mentioned in paragraph (b)(i) of the trust deed definition, in the debtor's not being able to remain in the debtor's current place of residence,
 - (iv) subject to any such exclusion, in the debtor's being required to relinquish property which the debtor owns,
 - (v) in the debtor's being required to make contributions from income for the benefit of creditors,
 - (vi) in damage to the debtor's business interests and employment prospects, and
 - (vii) in the fact of the debtor's having granted a trust deed becoming public information,
- (b) the trustee must provide the debtor with a copy of a debt advice and information package, and
 - (c) the trustee and the debtor must both sign a statement to the effect that the trustee has fulfilled the duties referred to in this subsection.

Commencement Information

II [S. 167](#) 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\(2\)\(b\)](#)