



# Bankruptcy (Scotland) Act 2016

## 2016 asp 21

### PART 14

#### VOLUNTARY TRUST DEEDS FOR CREDITORS

##### *Conditions for protected status*

#### **170 Documents to be sent to creditors**

- (1) Not later than 7 days after the date of registration under section 169, the trustee must send to every creditor known to the trustee (other than any secured creditor who has, as mentioned in paragraph (b)(ii) of the trust deed definition, agreed not to claim under the trust deed for any of the debt in respect of which the security is held)—
- (a) a copy of the trust deed,
  - (b) a copy of such form as may be prescribed for the purposes of a creditor making a statement of claim,
  - (c) a copy of the notice mentioned in section 169,
  - (d) a statement of the debtor's affairs, prepared by the trustee, containing—
    - (i) a list of the debtor's assets and liabilities,
    - (ii) a statement of the debtor's income and expenditure as at the date on which the trust deed was granted (being, where the debtor is a living individual, a statement in the <sup>F1</sup>form prescribed for that purpose by the Protected Trust Deeds (Forms) (Scotland) Regulations 2016]),
    - (iii) a statement as to the extent to which those assets and that income will not vest in the trustee,
    - (iv) a statement as to whether, and if so on what basis, the <sup>F2</sup>EU insolvency proceedings regulation applies to the trust deed,
    - <sup>F3</sup>(v) .....
    - (vi) a statement as to whether the creditors are likely to be paid a dividend and the amount of the dividend that is expected to be paid,
    - (vii) if the case is one in which there is an exclusion such as is mentioned in paragraph (b)(i) of the trust deed definition, a statement by the trustee, on the basis of the information for the time being available to the

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- trustee, as to what the effect of that exclusion is likely to be on any such dividend,
- (viii) a statement that the trustee on request must provide a copy of any valuation held by the trustee which has been made by a third party and which relates to an asset of the debtor, any statement showing the amount due by the debtor under a security and any document showing the income for the time being of the debtor,
  - (ix) a copy of any agreement referred to in section 175(1),
  - (x) a statement explaining the conditions which require to be fulfilled before the trust deed will become a protected trust deed and the consequences of its so becoming,
  - (xi) details of any protected trust deed in respect of which, in the 6 months preceding publication of the notice provided for in section 169, the debtor has been discharged in terms of section 184(1) (or regulation 24(1) of the Protected Trust Deeds (Scotland) Regulations 2013 (S.S.I. 2013/318)) or been refused a letter of discharge under section 184(8) (or regulation 24(8) of those regulations), and
  - (xii) where a secured creditor's agreement has been obtained by virtue of paragraph (b) of section 166(2), a statement containing the valuation made by virtue of paragraph (a) of that section and a statement of the amount owed, in respect of the security held, to that creditor, and
- (e) a statement, in such form as may be prescribed for the purposes of this paragraph, of the trustee's anticipated realisations from the trust deed.
- (2) The trust deed must be acceded to by the creditors to whom the trustee is required by subsection (1) to send documents (those creditors being in this Part referred to as “the notified creditors”) but is deemed to have been acceded to by them unless, within the relevant period, the trustee receives notification in writing from a majority in number, or no fewer than  $\frac{1}{3}$  in value, of them that they object to the trust deed being granted protected status.

#### Textual Amendments

- F1** Words in s. 170(1)(d)(ii) substituted (30.11.2016) by [S.S.I. 2016/398, reg. 2\(2\)](#)
- F2** Word in s. 170(1)(d)(iv) substituted (26.6.2017) by [The Insolvency \(Regulation \(EU\) 2015/848\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/210\), regs. 1, 4\(12\) \(with reg. 9\)](#)
- F3** [S. 170\(1\)\(d\)\(v\)](#) omitted (31.12.2020) by virtue of [The Insolvency \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/94\), regs. 1, 4\(14\) \(with reg. 9\) \(as amended by S.S.I. 2020/337, regs. 1, 2\); 2020 c. 1, Sch. 5 para. 1\(1\)](#)

#### Commencement Information

- I1** S. 170 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\(2\)\(b\)](#)