



Bankruptcy (Scotland) Act 2016

2016 asp 21

PART 14

VOLUNTARY TRUST DEEDS FOR CREDITORS

Effect of protected status etc.

174 Deductions by virtue of protected trust deed from debtor's earnings

- (1) This section applies where—
 - (a) a debtor is required to pay to the trustee, by virtue of a protected trust deed, a contribution from income for the benefit of creditors,
 - (b) in respect of that contribution, an amount is required to be paid from the debtor's earnings from employment, and
 - (c) the debtor has failed on two consecutive occasions to pay that amount to the trustee.
- (2) Following a request by the trustee, the debtor must give the debtor's employer an instruction, in such form as may be prescribed for the purposes of this section, to make—
 - (a) deductions of specified amounts from the debtor's earnings, and
 - (b) payments to the trustee of the amounts so deducted.
- (3) The trustee may give the debtor's employer an instruction, in such form as may be prescribed for the purposes of this section (being a form to the same effect as is mentioned in subsection (2)), if the debtor fails to comply with the requirement imposed by that subsection.
- (4) If agreed between the debtor and the trustee, the debtor may give the debtor's employer a variation to an instruction mentioned in subsection (2).
- (5) The employer must comply with any instruction given in accordance with subsection (2) or (3) (or, if an instruction under subsection (2) is varied in accordance with subsection (4), with that instruction as so varied).
- (6) The instruction having been delivered, the employer must, while it is in effect—
 - (a) deduct the sum specified in it on every pay day, and

Status: This is the original version (as it was originally enacted).

- (b) pay the sum deducted to the trustee as soon as it is reasonable to do so.
- (7) Where an employer fails without good cause to make a payment due under an instruction, the employer is—
- (a) liable to pay on demand by a trustee the amount that should have been paid, and
 - (b) not entitled to recover from a debtor the amount paid to the debtor in breach of the instruction.
- (8) An employer may, on making a payment due under an instruction—
- (a) charge a fee equivalent to the fee chargeable for the time being under section 71 (employer’s fee for operating diligence against earnings) of the Debtors (Scotland) Act 1987, and
 - (b) deduct that fee from the balance due to the debtor.
- (9) The trustee must, without delay after the discharge of a debtor under section 184, notify in writing any person who has received an instruction under subsection (2) or (3) (or an instruction under subsection (2) varied in accordance with subsection (4)) that the instruction is recalled.