
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2013 No.

The Protected Trust Deeds (Scotland) Regulations 2013

PART 3

REGISTRATION AND EFFECT OF PROTECTION

Agreement in respect of debtor's heritable property

15.—(1) This regulation does not apply to the debtor's dwellinghouse (or any part of that dwellinghouse) if the dwellinghouse or part is excluded from the estate conveyed to the trustee in accordance with section 5(4A)(b)(i) of the Act.

(2) Subject to the conditions in paragraph (3), the trustee may agree in Form 1B at the date on which the trust deed was granted—

- (a) not to realise any specified heritable estate of the debtor which has been conveyed to the trustee;
- (b) to relinquish the trustee's interest in respect of such heritable estate; and
- (c) to recall any notice of inhibition in respect of such heritable estate in accordance with paragraph 2(2) of Schedule 5 to the Act.

(3) The conditions are—

- (a) the debtor must—
 - (i) pay any amount determined by the trustee by the date determined by the trustee;
 - (ii) following the payment period under regulation 8(2) where there is a contribution from income, pay a monthly amount determined by the trustee for a period determined by the trustee; and
- (b) the debtor must co-operate with the administration of the trust.

(4) The amount of the debtor's payments under paragraph (3)(a)(i) and (ii) must be determined in accordance with a valuation made by a chartered surveyor or other suitably qualified third party of the debtor's heritable estate as at the date of grant of the trust deed.

(5) If the debtor fails to fulfil a condition mentioned in paragraph (3), the trustee may withdraw from the agreement.

(6) The trustee must, as soon as is practicable, send a copy of the agreement mentioned in paragraph (2) in Form 1B to the Accountant and to every creditor known to the trustee (other than any secured creditor who has under section 5(4A)(b)(ii) of the Act agreed not to claim under the trust deed for any of the debt in respect of which the security is held).