
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2013 No.

The Protected Trust Deeds (Scotland) Regulations 2013

PART 2

CONDITIONS OF PROTECTION

Statements in relation to trust deed

7.—(1) The trust deed must state—

- (a) that, subject to any exclusion mentioned in section 5(4A)(b)(i) of the Act, all of the debtor's estate (other than property listed in section 33(1) of the Act or which would be excluded under any other provision of the Act or of any other enactment from vesting in the trustee of a sequestrated estate) is conveyed to the trustee;
- (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 a period of 4 years beginning with the date on which the trust deed is granted; and
 - (ii) would have been conveyed to the trustee under paragraph (1)(a) if it had been part of the debtor's estate on the date on which the trust deed was granted; and
- (c) that any contribution from income for the benefit of creditors is payable in accordance with regulation 8.

(2) Where the debtor's dwellinghouse, or part of the debtor's dwellinghouse, is excluded as mentioned in section 5(4A)(b)(i) of the Act 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 being refused credit, whether before or after the debtor's discharge under regulation 24;
 - (iii) subject to any exclusion mentioned in section 5(4A)(b)(i) of the Act, in the debtor not being able to remain in the debtor's current place of residence;
 - (iv) subject to any such exclusion, in the debtor being required to relinquish property which the debtor owns;
 - (v) in the debtor 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 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 referred to in section 10(5) of the Debt Arrangement and Attachment (Scotland) Act 2002⁽¹⁾; and
- (c) the trustee and the debtor must sign a statement to the effect that the trustee has fulfilled the duties referred to in this paragraph.

(1) asp 17. Section 10(5) is prospectively amended by the Child Maintenance and Other Payments Act 2008 (c.6), Schedule 7, paragraph 5 and S.S.I. 2012/301, Schedule 1, paragraph 2.