
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2014 No.

The Common Financial Tool etc. (Scotland) Regulations 2014

Protected Trust Deeds

Amendments to Protected Trust Deeds (Scotland) Regulations 2013

6. The Protected Trust Deeds (Scotland) Regulations 2013(1) are amended in accordance with regulations 7 to 10.

Common Financial Tool: consequential amendments

7.—(1) After the definition of “Common Financial Statement” in regulation 2 (interpretation), insert—

““common financial tool” has the meaning given by section 5D(1) of the 1985 Act;”.

(2) In regulation 7(1)(c) (statements in relation to trust deed) after “benefit of creditors” insert “, including any contribution required by the common financial tool where the debtor is a living individual.”.

(3) In regulation 8 (payment of debtor’s contribution)—

(a) at the end of paragraph (1), insert “, as required by the common financial tool where the debtor is a living individual”; and

(b) in paragraph (5), for “paragraph (4)” substitute “paragraphs (1) and (4)”.

(4) In regulation 10(1)(d)(ii) (documents to be sent to creditors), for “in the style and format of the Common Financial Statement” substitute “, in Form 2A where the debtor is a living individual”.

(5) For regulation 11(1)(h) (registration of the trust deed etc.) substitute—

“(h) where a debtor who is a living individual makes a contribution from income, a statement—

(i) that the amount of that contribution is in accordance with the common financial tool as assessed by the trustee; and

(ii) any evidence or explanation required in applying the common financial tool;”

(6) For regulation 11(2)(c) substitute—

“(c) the Accountant is satisfied in accordance with the common financial tool with the amount of the contribution determined.”.

Administration

8.—(1) After regulation 21(2) (administration of trust), insert—

“(2A) If the trustee receives within 21 days after the date on which the Form 4 was sent notification in writing from—

(a) a majority in number; or

- (b) not less than one third in value, of creditors that they object to the recommended course of action in the Form 4 where the expected final dividend to ordinary creditors is 20% lower than the expected dividend to ordinary creditors set out in the Form 3, the trustee must request a direction under regulation 19(3) as to how the trust must be administered.”

(2) In regulation 23(3)(a) (approval of increase in fixed fee), for “majority in number” substitute “majority in value”.

(3) In regulation 24(8) (refusal of trustee to apply for debtor’s discharge), for “at the end of the period of 48 months beginning with the day on which the trust deed was granted” substitute “as soon as reasonably practicable after the end of the period for which payments are required under the trust deed”.

Remuneration for outlays before grant of trust deed

9. At the end of regulation 23(1)(c) (remuneration to which trustee entitled), insert “or before that date on a single valuation of any specified heritable estate”.

Minor amendments

10.—(1) In regulation 19(5) (directions to trustee under protected trust deed: period of compliance), for “regulation 27(1)(b)” substitute “regulation 27(1)(c)”.

(2) In regulation 23(1) (remuneration to which trustee entitled) after “consist” insert “only”.

(3) In regulation 23(7) (remuneration: audit fee) for “Bankruptcy Fees etc. (Scotland) Regulations 2012” substitute “Bankruptcy Fees (Scotland) Regulations 2014(2)”.

(4) In regulation 24(5) (discharge of debtor), after “later” insert “than”.

(5) In the Schedule (forms to be used in connection with protected trust deeds)—

(a) in the table of forms, after the entry for Form 2, insert—

“2A	Income and expenditure	Regulation 10(1)(d)(ii)”;
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(b) after Form 2 insert Form 2A set out in the Schedule to these Regulations; and

(c) for—

- (i) Form 3 (trust deed protection proposal);
- (ii) Form 4 (trustee’s statement of status of a protected trust deed);
- (iii) Form 6 (application to creditors for discharge of trustee); and
- (iv) Form 7 (trustee statement of realisation and distribution),

substitute respectively Forms 3, 4, 6 and 7 set out in the Schedule to these Regulations.

Trust deeds granted before 1st April 2015

11. These Regulations do not apply to trust deeds granted before 1st April 2015; and the Protected Trust Deeds (Scotland) Regulations 2013 as in force immediately before that date continue to apply to those trust deeds.