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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2013 No.**

**The Protected Trust Deeds (Scotland) Regulations 2013**

**PART 4**

**ADMINISTRATION, ACCOUNTING AND DISCHARGE**

**Remuneration payable to trustee under protected trust deed**

**23.**—(1) For work done by the trustee in administering the trust, the trustee under a protected trust deed is entitled to remuneration which may consist of—

- (a) a fixed fee which must be set out in the Form 3 (“fixed fee”);
- (b) an additional fee based upon a percentage of the total assets and contributions realised by the trustee which must be set out in the Form 3; and
- (c) outlays incurred after the date on which the trust deed was granted.

(2) In the event of unforeseen circumstances, the fixed fee may be increased by—

- (a) approval by a majority in value of the notified creditors; or
- (b) all notified creditors having first been asked to approve the increase, approval by the Accountant.

(3) The Accountant is to approve an increase in the fixed fee if satisfied—

- (a) that a majority in number of the notified creditors have not refused to approve the increase in the fixed fee; and
- (b) that the increase in the fixed fee is required for work to be completed by the trustee for the benefit of the creditors generally that was not foreseen in submitting the Form 3.

(4) In deciding whether or not to grant the approval mentioned in paragraph (2)(b), the Accountant may determine the amount of any increase in the fixed fee.

(5) The trustee is entitled to include work done in seeking to comply with regulation 6 (whether or not a secured creditor has agreed not to claim under the trust deed) in the fixed fee and any outlays incurred.

(6) Any debt due to a third party for work done before the granting of the trust deed does not rank higher than any other creditor’s claim.

(7) The trustee is entitled to recover from the debtor’s estate any audit fee charged by the Accountant under paragraph 1 or 1A of Schedule 5 to the Act in accordance with the rate specified in the Table of Fees in Schedule 1 to the Bankruptcy Fees etc. (Scotland) Regulations 2012(1).

(8) The Accountant may, at any time, audit the trustee’s accounts and fix the outlays of the trustee in the administration of the trust.