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SCHEDULE 1

Regulation 25

FORMS

FORM 1 NOTICE IN EDINBURGH GAZETTE BY TRUSTEE UNDER A TRUST DEED FOR THE BENEFIT OF CREDITORS

Regulation 7

Protected Trust Deeds (Scotland) Regulations 2008, regulation 7

The trust deed may become a protected trust deed unless, within the period of 5 weeks of the date of publication in this notice in the Edinburgh Gazette, a majority in number or not less than one third in value of the creditors notify the trustee in writing that they object to the trust deed and do not wish to accede to it.

Briefly, this has the effect of restricting the rights of non-acceding creditors to do diligence (i.e. to enforce court decrees for unpaid debts) against the debtor and confers certain protection upon the trust deed from being superseded by the sequestration of the debtor's estate.

Notes

(a) *Insert name of debtor*

(b) *Insert name, designation and address of debtor, and if he/she/it trades under a different name, state also his/her/its trading name and address*

(c) *Insert date of granting of trust deed*

(d) *Insert name and address of trustee*

Trust deed for creditors by

(a) _____

A trust deed has been granted by

(b) _____

on (c) _____

conveying (to the extent specified in section 5(4A) of the Bankruptcy (Scotland) Act 1985) his/her/its estate to me

(d) _____

as trustee for the benefit of his/her/its creditors generally.

If a creditor wishes to object to the trust deed for the purposes of preventing it becoming a protected trust deed (see notes above on the objections required for that purpose) notification of such objection must be delivered in writing to the trustee within 5 weeks of the date of publication of this notice in the Edinburgh Gazette

Signature of trustee

Date _____

FORM 2 STATEMENT OF CLAIM BY CREDITOR IN TRUST DEED

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Regulation 8(d)

Bankruptcy (Scotland) Act 1985, Schedule 5

Notes	Trust deed of
<i>(a) Insert name and address of debtor</i>	<i>(a)</i> _____ _____ _____
<i>(b) Insert name and address of creditor</i>	<i>(b)</i> _____ _____ _____
<i>(c) Insert name and address, if applicable, of authorised person acting on behalf of the creditor</i>	<i>(c)</i> _____ _____ _____
<i>(d) Insert details of any other proceedings in which a claim has been or is being submitted in respect of the debt or part of the debt and the amount claimed</i>	<i>(d)</i> _____ _____ _____
<i>(e) Insert total amount claimed in respect of all the debts, the particulars of which are set out overleaf.</i>	I submit a claim of (e) £ _____ In the above trust deed and certify that the particulars of the debt or debts making up that claim, which are set out overleaf, are true, complete and accurate, to the best of my knowledge and belief. Signed _____ Creditor*/person acting on behalf of creditor Date _____

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PARTICULARS OF EACH DEBT	
<p><i>Notes</i></p> <p><i>A separate set of particulars should be made out in respect of each debt</i></p> <p>1. <i>Describe briefly the debt, giving details of its nature, the date when it was incurred and when payment became due.</i></p> <p><i>Attach any documentary evidence of the debt, if available.</i></p> <p>2. <i>Insert total amount of the debt, showing separately the amount of principal and any interest which is due on the debt as at the date of the trust deed being granted. Interest may only be claimed if the creditor is entitled to it. Show separately the VAT on the debt and indicate whether the VAT is being claimed back from HM Revenue and Customs.</i></p> <p>3. <i>Specify and give details of the nature of any security held in respect of the debt including—</i></p> <p style="padding-left: 20px;"><i>(a) the subjects covered and the date when it was given;</i></p> <p style="padding-left: 20px;"><i>(b) the value of the security;</i></p> <p style="padding-left: 20px;"><i>(c) whether the creditor is surrendering or undertakes to surrender the security.</i></p> <p><i>Security is defined for the purposes of the Bankruptcy (Scotland) Act 1985 as meaning "any security, heritable or moveable, or any right of lien, retention or preference"</i></p> <p>4. <i>In the case of a member State liquidator creditor, specify and give details of underlying claims in respect of which that creditor is claiming as creditor.</i></p> <p><i>Attach documentary evidence of debts.</i></p> <p>5. <i>In calculating the total amount of the claim, a secured creditor must deduct the value of any security as estimated by that creditor, unless the creditor surrenders it (see note 3(c) above).</i></p>	<p>1. Particulars of debt</p> <p>2. Amount of debt</p> <p>3. Security for debt</p> <p>4. Underlying claims</p> <p>5. Total amount of the debt</p>

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Regulation 10(1)(f)

Bankruptcy (Scotland) Act 1985, Schedule 5

Statement

A trust deed was granted by

	Insert debtor's name
	Insert debtor's address
	Town
	County
	postcode

on _____ (insert date) conveying *his/her estate to

me,	Insert insolvency practitioner's name
	Insert business address
	Town
	County
	postcode

as trustee for the benefit of *his/her creditors generally.

I anticipate that this trust deed will be complete by _____ (date).

I estimate the following realisations for the benefit of those creditors:

		Estimate	
A	Number of contributions		
B	Value of contributions		
C	Total realisations from contributions		A × B (see note 3)
D	Total realisations from assets (see note 4)		
E	Gross realisations		C + D
F	Cost of administration and outlays		
G	Net realisations		E - F
H	Debt due to ordinary creditors		
I	Dividend to ordinary creditors		G + H

Statement

I state that—

The necessary majority of the creditors have acceded or have been treated as having acceded to the protection of the trust deed.

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I enclose—

- a certified copy of the trust deed
- a copy of the Edinburgh Gazette notice advertising the trust deed
- a copy of the joint statement required by regulation 6 of the Protected Trust Deed (Scotland) Regulations 2008

Application

I apply for the registration of the trust deed in the Register of Insolvencies.

Signed _____ (trustee)

Date _____

* delete as appropriate

Notes

1. This form must be sent to the Accountant in Bankruptcy immediately after the expiry of the 5 week period following the publication of a notice of the trust deed in the Edinburgh Gazette.
2. The trust deed will become protected from the date of registration in the Register of Insolvencies.
3. The total anticipated realisation from contributions should take account of any variation in the level of contribution agreed with the debtor.
4. Total realisations from assets should exclude the value of any security.

FORM 4TRUSTEE'S STATEMENT OF STATUS OF A PROTECTED TRUST DEED

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Regulation 17(3)

Bankruptcy (Scotland) Act 1985, Schedule 5

Statement

A trust deed was granted by

	Insert debtor's name
	Insert debtor's address
	Town
	County
	postcode

on _____ (insert date) conveying *his/her estate to

me,	Insert insolvency practitioner's name
	Insert business address
	Town
	County
	postcode

as trustee for the benefit of *his/her creditors generally.

I anticipate that this trust deed will be complete by _____ (date).

*I state that the estimated dividend is the same as the estimate made in the previous statement dated _____ (date of last statement)

* I state that the estimated dividend is now: _____ and has varied from the estimate made in the previous statement for the following reason(s):

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*I have revised my estimate of realisations for the benefit of those creditors as follows:

		Ingathered	Anticipated	total	
A	Number of contributions				
B	Value of contributions				
C	Total realisations from contributions				A × B (see note 3)
D	Total realisations from assets (see note 4)				
E	Gross realisations				C + D
F	Cost of administration and outlays				
G	Net realisations				E - F
H	Debt due to ordinary creditors				
I	Dividend to ordinary creditors				G ÷ H

Signed _____ (trustee)

Date _____

* delete as appropriate

Notes

1. This form must be sent to the Accountant in Bankruptcy immediately after the expiry of each one year period following the granting of the trust deed.
2. A revised estimate of realisations should only be completed if there is a variation from the previous estimate.
3. The total anticipated realisation from contributions should take account of any variation in the level of contribution agreed with the debtor.
4. Total realisations from assets should exclude the value of any security.

FORM 5 LETTER OF DISCHARGE OF DEBTOR

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulation 19(3)(a)

Bankruptcy (Scotland) Act 1985, Schedule 5

A trust deed was granted by

	Insert debtor's name
	Insert debtor's address
	Town
	County
	postcode

on _____ (insert date) conveying (to the extent specified in section 5(4A) of the Bankruptcy (Scotland) Act 1985) *his/her estate to

me,	Insert insolvency practitioner's name
	Insert business address
	Town
	County
	postcode

as trustee for the benefit of *his/her creditors generally.

A sufficient proportion of the creditors acceded or were treated as having acceded to the protection of the trust deed and it was recorded as a protected trust deed in the Register of Insolvencies on _____ (insert date).

I certify that

to the best of my knowledge the debtor has met his/her obligations under the trust deed,
and
the debtor has been discharged from *his/her protected trust deed on
_____ (insert date)

Signed _____ (trustee)

Date _____

* delete as appropriate

Notes

1. A copy of this form must be sent to the Accountant in Bankruptcy to record the discharge in the Register of Insolvencies.

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2. A letter of discharge is not appropriate where the trustee does not consider that the debtor has made a full and fair surrender of his/her estate.
3. The debtor's letter of discharge does not discharge the debtor from any liability arising after the date on which the trust deed was granted or any debt which would be excluded from a discharge under section 55(2) of the Act, nor does it affect the rights of secured creditors.

FORM 6 APPLICATION TO CREDITORS FOR DISCHARGE OF THE TRUSTEE OF A PROTECTED TRUST DEED

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulation 21(1)

Bankruptcy (Scotland) Act 1985, Schedule 5

Statement

A trust deed was granted by

	Insert debtor's name
	Insert debtor's address
	Town
	County
	postcode

on _____ (insert date) conveying *his/her estate to

me,	Insert insolvency practitioner's name
	Insert business address
	Town
	County
	postcode

as trustee for the benefit of *his/her creditors generally.

A sufficient proportion of the creditors acceded or were treated as having acceded to the protection of the trust deed and it was recorded as a protected trust deed in the Register of Insolvencies on _____ (insert date).

Statement

The trustee states that

*The trust deed has ceased to be operative for the following reason
_____ (specify reason)

*A final distribution of the debtor's estate has been made to creditors

*to the best of the trustee's knowledge the debtor has met his/her obligations under the trust deed.

A copy of the trustee's statement of realisation and distribution of the debtor's estate

*is attached.

*was sent to creditors on _____ (insert date)

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Application

The trustee hereby applies to the creditors
For his/her discharge from office

Signed _____ (trustee)

Date _____

Notes

1. This form should be sent to all creditors who acceded or who are treated as having acceded to a protected trust deed. The form should be sent to such creditors not more than 28 after the date on which the trustee makes the final distribution of the debtor's estate.
2. The trustee will be discharged from office if a majority in value of creditors agree to the application. A creditor who does not respond within 14 days is deemed to have agreed.

FORM 7 TRUSTEE'S STATEMENT OF REALISATION AND DISTRIBUTION OF ESTATE
UNDER A PROTECTED TRUST DEED

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulation 22(b)

Bankruptcy (Scotland) Act 1985, Schedule 5

Statement

A trust deed was granted by

	Insert debtor's name
	Insert debtor's address
	Town
	County
	postcode

on _____ (insert date) conveying (to the extent specified in section 5(4A) of the Bankruptcy (Scotland) Act 1985) *his/her estate to

me,	Insert insolvency practitioner's name
	Insert business address
	Town
	County
	postcode

as trustee for the benefit of *his/her creditors generally.

Averment

I confirm that

1. The creditors consented to my discharge as trustee on _____ (date)
2. The following is a true and accurate statement of my realisation and distribution of the debtor's estate

		Specify details	Total	
A	Number of contributions			
B	Value of contributions			
C	Total realisations from contributions			A × B (see note 2)
D	Total realisations from assets (see note 3)			
E	Gross realisations			C + D
F	Cost of all expenses connected with the administration of the estate, including remuneration			
G	Net realisation			E - F
H	Debt due to ordinary creditors			
J	Dividend to ordinary creditors			G ÷ H

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4. The dividend paid

*is the same as the estimate made in the last statement dated _____ (date of last statement)

* has varied from the last statement for the following reason(s)

Signed _____ (trustee)

Date _____

* delete as appropriate

Notes

1. This form must be sent to the Accountant in Bankruptcy immediately after the trustee has received his or her discharge from the creditors.
2. The total anticipated realisation from contributions should take account of any variation in the level of contribution agreed with the debtor.
3. Total realisations from assets should exclude the value of any security.

SCHEDULE 2

Regulation 16(a)

DOCUMENTS TO BE RETAINED BY TRUSTEE

1. The trust deed.
2. The statement (signed by the trustee and the debtor) referred to in regulation 6.
3. The notice referred to in regulation 7.
4. The statement of the debtor's affairs referred to in regulation 8(c).
5. Copies of any statements of objection or accession received from creditors.
6. A copy of the statement of anticipated realisations referred to in regulation 10(1)(f).
7. A copy of any statement of status referred to in regulation 17(3).
8. Any adjudication on claims by creditors.
9. Any scheme of division amongst creditors.
10. Any circular sent to creditors with accounts.
11. Form of the debtor's discharge from the trust deed.
12. Any form sent to creditors requesting the trustee's discharge.

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13. A copy of the statement of realisations referred to in regulation 22(b).