

POLICY NOTE

THE PROTECTED TRUST DEEDS (SCOTLAND) AMENDMENT REGULATIONS 2016

SSI 2016/399

1. The above Regulations would be made by Scottish Ministers in exercise of the powers conferred by section 72(1A) and paragraph 5 of schedule 5 to the Bankruptcy (Scotland) Act 1985. They are subject to the affirmative procedure.

Policy Objectives

2. The Protected Trust Deeds (Scotland) (Forms) Regulations 2016, made to support the Bankruptcy (Scotland) Act 2016, introduced minor amendments to the information captured within the forms used in the protected trust deed process and will apply to Protected Trust Deeds (PTDs) granted on or after the 30 November 2016.
3. These Regulations amend the Protected Trust Deeds (Scotland) Regulations 2013 to ensure consistency and ease of administration for trustees and Accountant in Bankruptcy (AiB). In particular, these Regulations replicate the structure and content of Forms 4, 5, 6 and 7 included in the Protected Trust Deeds (Scotland) (Forms) Regulations 2016 with the primary purpose of applying these, with appropriate references to legislation, in the administration of PTDs granted on or after 28 November 2013 but before 30 November 2016.
4. In particular extra fields have been added to the tables in Forms 4, 6 and 7 for miscellaneous payments and statutory interest and this has necessitated other minor amendments in the Notes and in the calculation formulae detailed in the Forms.

Consultation

5. AiB has worked closely with stakeholders who have provided valuable feedback on the proposals for the Protected Trust Deeds (Scotland) (Forms) Regulations 2016. The amendments made to the forms have been made with consideration to points raised by stakeholders during the consultation process and the benefits of consistency across different forms lodged with AiB.

Impact Assessments

6. A Business and Regulatory Impact Assessment (BRIA) has been completed. A copy of this BRIA can be found on the AiB website at: www.aib.gov.uk.
7. An Equality Impact Assessment (EQIA) has not been carried out as these Regulations purely consolidate existing legislation which was previously subject to an EQIA and which highlighted no issues. AiB has, however, given thought to the effects of these regulations and the changes set out in this instrument will apply equally to all. AiB regularly consults with stakeholders, service users and the general public on reforms to bankruptcy law to ensure that the needs of all groups of society who require to

enter bankruptcy are considered and that no particular groups are disadvantaged or excluded more than others.

Financial Effects

8. AiB has considered the financial impact of the Consolidation in the 2016 Act and associated Regulations on firms. Stakeholders mentioned to the Delegated Powers and Law Reform Committee the costs that would require to be incurred. Whilst there will be one-off limited costs and training requirements these will be mitigated over time by the savings associated by simpler statute and reduced time in sourcing appropriate legislation.

The Accountant in Bankruptcy on behalf of the Scottish Government

September 2016