



Home Owner and Debtor Protection (Scotland) Act 2010

2010 asp 6

PART 2

SEQUESTRATION AND TRUST DEEDS

10 Trust deeds

- (1) In section 5(4A) (definition of “trust deed”) of the 1985 Act—
- (a) after “means” insert “—
(a),
and
 - (b) after “generally” insert “; and
(b) any other trust deed which would fall within paragraph (a) but for—
 - (i) the exclusion from the estate conveyed to the trustee of the whole or part of the debtor’s dwellinghouse, where a secured creditor holds a security over it; and
 - (ii) the fact that the debtor’s estate is not conveyed to the trustee for the benefit of creditors generally because the secured creditor has, at the debtor’s request, agreed before the trust deed is granted not to claim under the trust deed for any of the debt in respect of which the security is held.”.
- (2) After section 5(4A) of the 1985 Act insert—
- “(4AA) In subsection (4A)(b) above “debtor’s dwellinghouse” means a dwellinghouse (including any yard, garden, outbuilding or other pertinents) which, on the day immediately preceding the date the trust deed was granted—
- (a) the debtor (whether alone or in common with any other person)—
 - (i) owned; or

Status: This is the original version (as it was originally enacted).

(ii) leased under a long lease (long lease having the same meaning as in section 28(1) of the Land Registration (Scotland) Act 1979 (c. 33); and

(b) was the sole or main residence of the debtor.

(4AB) For the purposes of subsection (4AA)(b) above, a dwellinghouse may be a sole or main residence irrespective of whether it is used, to any extent, by the debtor for the purposes of any profession, trade or business.”.