



# Bankruptcy (Scotland) Act 2016

## 2016 asp 21

### PART 14

#### VOLUNTARY TRUST DEEDS FOR CREDITORS

##### *Administration, accounting and discharge*

#### **[<sup>F1</sup>184A Protected trust deed: refusal of debtor discharge**

(1) If—

- (a) the period for which payments are required under the trust deed has ended, and
- (b) on request by the debtor, or where the trustee has not made a statement under section 184(2)(a) on the basis that the trustee considers that the debtor—
  - (i) has not met the debtor's obligations in terms of the trust deed, or
  - (ii) has not co-operated with the administration of the trust,

the trustee must as soon as reasonably practicable apply to AiB for agreement to refuse to discharge the debtor from the trust deed.

(2) If—

- (a) the period for which payments are required under the trust deed has not ended,
- (b) on request by the debtor, or where the trustee is satisfied that the debtor—
  - (i) has not met the debtor's obligations in terms of the trust deed, or
  - (ii) has not co-operated with the administration of the trust, and
- (c) the trustee is satisfied that that failure to meet the debtor's obligations under the trust deed or to co-operate with the administration of the trust is likely to continue until the period for which payments are required under the trust deed ends,

the trustee must as soon as reasonably practicable apply to AiB for agreement to refuse to discharge the debtor from the trust deed.

(3) An application under subsection (1) or (2) must—

- (a) be in the form prescribed for that purpose in the Protected Trust Deeds (Forms) (Scotland) Regulations 2016, and
- (b) include details of the trustee's consideration under subsection (1) or, as the case may be, (2).

*Status: Point in time view as at 01/07/2024.*

*Changes to legislation: Bankruptcy (Scotland) Act 2016, Section 184A is up to date with all changes known to be in force on or before 26 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (4) Where AiB receives an application under subsection (1) or (2), and AiB agrees that the debtor should not be discharged from the trust deed, AiB must notify the trustee of that conclusion as soon as reasonably practicable.
- (5) Where the trustee receives a notification from AiB under subsection (4), the trustee must—
  - (a) within 7 days, inform the debtor by notice in writing—
    - (i) of the fact and the reason for the refusal,
    - (ii) that the debtor is not discharged from the debtor's debts and obligations in terms of the trust deed, and
    - (iii) of the debtor's right to apply to the sheriff for a direction under section 189(1), and
  - (b) within 21 days of the date the notice is sent to the debtor under paragraph (a), send a copy of that notice to AiB.
- (6) Where AiB considers that the debtor should be discharged from the trust deed, AiB must issue such direction to the trustee as it considers appropriate.
- (7) Section 184(7) applies for the purposes of this section in the same way as it applies for the purposes of section 184(2)(a)(i).
- (8) Nothing in this section prevents the trustee from being discharged under section 186.]

#### **Textual Amendments**

- F1** Ss. 184A-184C inserted (1.7.2024) by [The Protected Trust Deeds \(Miscellaneous Amendment\) \(Scotland\) Regulations 2024 \(S.S.I. 2024/198\)](#), regs. 1(1), **5(4)**

**Status:**

Point in time view as at 01/07/2024.

**Changes to legislation:**

Bankruptcy (Scotland) Act 2016, Section 184A is up to date with all changes known to be in force on or before 26 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.