



Bankruptcy (Scotland) Act 2016

2016 asp 21

PART 14

VOLUNTARY TRUST DEEDS FOR CREDITORS

Administration, accounting and discharge

179 Directions to trustee under protected trust deed

- (1) AiB may give directions to the trustee under a protected trust deed as to how the trustee should conduct the administration of the trust.
- (2) On a direction being issued by virtue of subsection (1) its terms must be intimated to the debtor and to all known creditors.
- (3) The direction may be issued on the initiative of AiB or (at AiB's discretion) on the request of the trustee, the debtor or any creditor.
- (4) The trustee must, unless subsection (5) applies, comply with the direction within 30 days beginning with the day on which the direction is given.
- (5) Where the trustee has appealed under section 188(1)(c) and the appeal has been dismissed by the sheriff or withdrawn by the trustee, the trustee must comply with the direction within 30 days beginning with the day of dismissal or withdrawal.
- (6) If it appears to AiB that the trustee has failed, without reasonable excuse, to comply with the direction, AiB may report the matter to the sheriff who, after hearing the trustee on the matter, may—
 - (a) censure the trustee, or
 - (b) make such other order as the circumstances of the case require.

Commencement Information

II S. 179 in force at 30.11.2016 by S.S.I. 2016/294, reg. 2

Changes to legislation: Bankruptcy (Scotland) Act 2016, Cross Heading: Administration, accounting and discharge is up to date with all changes known to be in force on or before 11 July 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) View outstanding changes

180 Information and notification obligations of trustee under protected trust deed

- (1) Where the trustee under a protected trust deed makes a determination to shorten or lengthen the payment period by virtue of section 168, the trustee must without delay notify the debtor accordingly.
- (2) Whether or not still acting in the administration of the trust under a protected trust deed, the trustee must supply AiB with such information relating to the trust deed as AiB considers necessary to enable AiB to discharge AiB's functions under this Act.
- (3) If it appears to AiB that the trustee has failed, without reasonable excuse, to supply information to AiB which is requested in accordance with subsection (2), AiB may report the matter to the sheriff who, after hearing the trustee on the matter, may—
 - (a) censure the trustee, or
 - (b) make such other order as the circumstances of the case require.
- (4) On the trustee under a protected trust deed being replaced with a new trustee, the new trustee must without delay notify AiB accordingly.

Commencement Information

I2 [S. 180](#) in force at 30.11.2016 by [S.S.I. 2016/294](#), [reg. 2](#)

181 Administration of trust under protected trust deed

- (1) At intervals of not more than 12 months (the first such interval beginning with the date on which the trust deed was granted) and within 6 weeks after the end of each interval, the trustee under a protected trust deed must send the trustee's accounts of the trustee's intromissions with the debtor's estate in administering the trust during the period in question—
 - (a) to the debtor,
 - (b) to each creditor, and
 - (c) (unless they are sent under section 186) to AiB.
- (2) At such intervals the trustee must send to AiB, the debtor and each creditor a report, in such form as may be prescribed for the purposes of this subsection, on the management of the trust during the period in question.
- (3) Subsection (4) applies where—
 - (a) within 21 days after the date on which the report is sent, the trustee receives notification in writing from—
 - (i) a majority in number, or
 - (ii) no fewer than $\frac{1}{3}$ in value,
 of the creditors that they object to a course of action recommended in the report, and
 - (b) the expected final dividend to ordinary creditors set out in the report is at least 20% lower than the expected dividend to ordinary creditors set out in the form prescribed for the purposes of section 170(1)(e).
- (4) The trustee must request under section 179(3) a direction as to the administration of the trust.

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- (5) The debtor or any creditor may, within 14 days after receiving a statement by virtue of subsection (1), require AiB to exercise the function mentioned in section 200(1) (a) (in so far as relating to trustees under protected trust deeds) by carrying out an examination of the administration of the trust by the trustee.
- (6) In determining the amount of any contribution from income to be made by the debtor—
- (a) the trustee may take account of any social security benefit paid to the debtor, but
 - (b) any contribution must not include an amount derived from social security benefit.

Commencement Information

I3 [S. 181](#) in force at 30.11.2016 by [S.S.I. 2016/294](#), [reg. 2](#)

182 Retention of documents by trustee under protected trust deed

The trustee under a protected trust deed must retain the following documents (or copies of those documents) for at least 12 months after the date of the trustee's discharge by the creditors under section 186—

- (a) the trust deed,
- (b) the statement mentioned in section 167(3)(c),
- (c) the notice mentioned in section 169,
- (d) the statement mentioned in section 170(1)(d),
- (e) all statements of objection or accession received from creditors,
- (f) the statement of anticipated realisations provided for in section 170(1)(e),
- (g) any written agreement relating to the debtor's heritable estate and mentioned in section 175(1),
- (h) all reports sent under section 181(2),
- (i) any adjudication on a creditor's claim,
- (j) any scheme of division among creditors,
- (k) any circular sent to creditors with accounts,
- (l) the debtor's discharge from the trust deed,
- (m) the application to creditors for the trustee's discharge,
- (n) the statement of realisation and distribution provided for in section 186(8)(b),
- (o) any decree, interlocutory decree, direction or order granted by the court and relating to the administration of the trust, and
- (p) any other document relating to the administration of the trust if it is a document which AiB, by notice to the trustee prior to the trustee's discharge, identifies as a document the trustee should retain.

Commencement Information

I4 [S. 182](#) in force at 30.11.2016 by [S.S.I. 2016/294](#), [reg. 2](#)

Changes to legislation: Bankruptcy (Scotland) Act 2016, Cross Heading: Administration, accounting and discharge is up to date with all changes known to be in force on or before 11 July 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) View outstanding changes

183 Remuneration payable to trustee under protected trust deed

- (1) For work done by the trustee in administering the trust, the trustee under a protected trust deed is entitled to remuneration consisting only of—
 - (a) a fixed fee which must be set out in a form prescribed for the purposes of this paragraph,
 - (b) an additional fee based on a percentage of the total assets and contributions realised by the trustee, being a fee set out in a form so prescribed, and
 - (c) outlays incurred—
 - (i) after the date on which the trust deed is granted, or
 - (ii) before that date on a single valuation of any item of the debtor's heritable estate specified or valued in such a valuation.
- (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) approval by AiB (all notified creditors having first been asked to approve the increase).
- (3) AiB must approve an increase in the fixed fee if satisfied—
 - (a) that a majority in value of the notified creditors have not refused to approve the increase, and
 - (b) that the increase is required for work to be completed by the trustee for the benefit of the creditors generally, being work which was not foreseen in submitting a form by virtue of section 170(1)(e).
- (4) In deciding whether or not to grant the approval mentioned in subsection (2)(b), AiB 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 section 166(2) (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 AiB under paragraph 1 or 2 of schedule 4 in accordance with such rate as may be prescribed under section 205.
- (8) AiB may, at any time, audit the trustee's accounts and fix the outlays of the trustee in the administration of the trust.

Commencement Information

15 [S. 183](#) in force at 30.11.2016 by [S.S.I. 2016/294](#), [reg. 2](#)

184 Protected trust deed: discharge of debtor

- (1) If the conditions set out in subsection (2) are met then, subject to subsections (6) and (9) and to section 185(1)—
 - (a) the debtor falls to be discharged from all debts and obligations —
 - (i) in terms of the protected trust deed, or

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- (ii) for which the debtor was liable as at the date that deed was granted, and
- (b) the trustee under the protected trust deed must send—
 - (i) to AiB, an application for discharge of the debtor from the trust deed (being an application in such form as may be prescribed for the purposes of this paragraph), and
 - (ii) to the debtor, a copy of that application.
- (2) The conditions are—
 - (a) that the trustee makes a statement (being a statement in such form as may be prescribed for the purposes of this paragraph) that, to the best of the trustee's knowledge, the debtor has—
 - (i) met the debtor's obligations in terms of the trust deed, and
 - (ii) co-operated with the administration of the trust, and
 - (b) any notice of inhibition under paragraph 3 of schedule 4 has been recalled or has expired.
- (3) Subject to subsection (9), on receipt of the application referred to in subsection (1)(b)
 - (i), AiB must register it in the register of insolvencies and the date of discharge is the date on which it is so registered.
- (4) AiB must without delay notify the trustee of—
 - (a) the fact of registration, and
 - (b) the date of the debtor's discharge.
- (5) The trustee must, within 7 days after receipt of the notification mentioned in subsection (4), notify the debtor and every creditor known to the trustee of the information set out in that notification.
- (6) The letter of discharge does not—
 - (a) discharge the debtor from—
 - (i) any liability arising after the date on which the protected trust deed was granted,
 - (ii) any liability or obligation mentioned in section 145(3),
 - (iii) any liability for a debt in respect of which a security is held if the secured creditor has, as mentioned in paragraph (b)(ii) of the trust deed definition, agreed not to claim under the trust deed for any of the debt in respect of which the security is held, or
 - (b) affect the rights of a secured creditor.
- (7) For the purposes of subsection (2)(a)(i), it is not a failure to meet the debtor's obligations for the debtor to refuse to —
 - (a) consent to the sale of the debtor's dwellinghouse (or of a part of that dwellinghouse) if the dwellinghouse or part is excluded, as mentioned in paragraph (b)(i) of the trust deed definition, from the estate conveyed to the trustee,
 - (b) give a relevant consent in terms of section 113(1)(a).
- ^{F1}(8)
- (9) AiB may refuse to register under subsection (3) an application sent under subsection (1)(b)(i) if not satisfied that the debtor has—

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- (a) met the debtor's obligations in terms of the trust deed, or
 - (b) co-operated with the administration of the trust.
- (10) If AiB does so refuse, AiB must provide written notification of the refusal and of the reason for it to the trustee and the debtor.
- (11) Within 7 days after the date on which the trustee receives any such notification as is mentioned in subsection (10), the trustee must send a copy of it to every creditor known to the trustee.

Textual Amendments

- F1** S. 184(8) omitted (1.7.2024) by virtue of [The Protected Trust Deeds \(Miscellaneous Amendment\) \(Scotland\) Regulations 2024 \(S.S.I. 2024/198\)](#), regs. 1(1), **5(3)**

Commencement Information

- I6** S. 184 in force at 30.11.2016 by [S.S.I. 2016/294](#), **reg. 2**

[^{F2}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).
- (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.

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- (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

- F2** 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)**

184B Protected trust deed: early discharge in extenuating circumstances

- (1) This section applies where the trustee considers that, due to extenuating circumstances affecting the debtor—
 - (a) the debtor can no longer meet their obligations under the trust deed,
 - (b) there is no reasonable prospect of the debtor being able to resume meeting their obligations under the trust deed, and
 - (c) the debtor should be discharged from the trust deed before the end of the period for which payments are required under the trust deed.
- (2) The trustee must send a notice to each of the creditors of whom the trustee is aware.
- (3) A notice under subsection (2) must—
 - (a) include details of the trustee’s consideration under subsection (1), and
 - (b) seek agreement from the creditor that the debtor be discharged from the trust deed.
- (4) The trustee must apply to AiB for the discharge of the debtor unless subsection (5) applies.
- (5) This subsection applies if the trustee has, within 21 days of sending notices under subsection (2), received notification in writing from a majority in number, or no fewer than $\frac{1}{3}$ in value, of the creditors that they object to the proposal to discharge the debtor.
- (6) An application under subsection (4) must be in the form prescribed for that purpose by the Protected Trust Deeds (Forms) (Scotland) Regulations 2016.

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- (7) Before applying to AiB for the discharge of the debtor, the trustee must be satisfied that any notice of inhibition under paragraph 3 of schedule 4 has been recalled or has expired.
- (8) On receipt of an application under subsection (4), AiB must register it in the register of insolvencies.
- (9) Where AiB registers an application under subsection (4)—
 - (a) the debtor falls to be discharged from all debts and obligations—
 - (i) in terms of the protected trust deed, or
 - (ii) for which the debtor was liable as at the date that deed was granted,
 - (b) the date of discharge is the date on which the application is so registered, and
 - (c) AiB must without delay notify the trustee of—
 - (i) the fact of registration, and
 - (ii) the date of the debtor’s discharge.
- (10) The trustee must, within 7 days after receipt of the notification mentioned in subsection (8), notify the debtor and every creditor known to the trustee of the information set out in that notification.
- (11) Section 184(6) applies to the notification of the debtor’s discharge under subsection (9) in the same way as it applies to a letter of discharge under section 184.

Textual Amendments

F2 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)**

184C Early discharge in extenuating circumstances: procedure where creditors object

- (1) This section applies where—
 - (a) the trustee has, in accordance with section 184B(2) and (3), sought the agreement of the creditors to the early discharge of the debtor from a trust deed, and
 - (b) at the end of the period of 21 days beginning with the day on which notices are sent under section 184B(2), the trustee has received notification in writing from a majority in number, or no fewer than $\frac{1}{3}$ in value, of the creditors that they object to the proposal to discharge the debtor.
- (2) The trustee must apply to AiB for a review of the proposal that the debtor be discharged.
- (3) An application for a review under subsection (2) must—
 - (a) include details of the trustee’s consideration under section 184B(1),
 - (b) include details of the objections received from the creditors, and
 - (c) be made no later than 14 days beginning with the end of the period of 21 days referred to in subsection (1)(b).
- (4) Where it receives an application under subsection (2), AiB must—

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- (a) determine whether it is satisfied that, taking into account all the circumstances, it is fair and reasonable for the debtor to be discharged from the trust deed, and
 - (b) notify the trustee of the outcome of that review.
- (5) The trustee must, no later than 7 days after receiving a notification under subsection (4) (b), notify the outcome of AiB’s review to—
- (a) the debtor, and
 - (b) each creditor to whom notice was sent under section 184B(2).
- (6) Where, after conducting a review under subsection (4), AiB determines that the debtor should be discharged from the trust deed—
- (a) the trustee must apply to AiB for the discharge of the debtor, and
 - (b) on receipt of such an application, AiB must register it in the register of insolvencies.
- (7) Where AiB registers an application under subsection (6)—
- (a) the debtor falls to be discharged from all debts and obligations—
 - (i) in terms of the protected trust deed, or
 - (ii) for which the debtor was liable as at the date that deed was granted,
 - (b) the date of discharge is the date on which the application is so registered, and
 - (c) AiB must without delay notify the trustee of—
 - (i) the fact of registration, and
 - (ii) the date of the debtor’s discharge.
- (8) The trustee must, within 7 days after receipt of the notification mentioned in subsection (7)(c), notify the debtor and every creditor known to the trustee of the information set out in that notification.
- (9) Section 184(6) applies to the notification of the debtor’s discharge under subsection (7) in the same way as it applies to a letter of discharge under section 184.
- (10) Where, after conducting a review under subsection (4), AiB determines that the debtor should not be discharged from the trust deed, AiB must issue a direction to the trustee.]

Textual Amendments

F2 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)**

185 Student loans

- (1) Section 184 does not affect the right to recover any debt arising from a student loan.
- (2) In subsection (1), “student loan” means a loan made by virtue of—
- (a) section 73(f) of the Education (Scotland) Act 1980,
 - (b) section 1 of the Education (Student Loans) Act 1990,
 - (c) section 22 of the Teaching and Higher Education Act 1998, or
 - (d) Article 3 of the Education (Student Support) (Northern Ireland) Order 1998 (S.I. 1998/1760).

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Commencement Information

I7 S. 185 in force at 30.11.2016 by S.S.I. 2016/294, reg. 2

186 Protected trust deed: discharge of trustee

- (1) This section applies where a trustee under a protected trust deed has made the final distribution of the trust estate among the creditors.
- (2) Within 28 days after the date of final distribution, the trustee must apply for discharge to such of those creditors as have acceded (or are deemed to have acceded) to the trust deed.
- (3) Any application under subsection (2) must be in such form as may be prescribed for the purposes of that subsection.
- (4) The trustee must send AiB by the date of application—
 - (a) a copy of the application, and
 - (b) the accounts of the trustee's intromissions for the last period for which accounts must be sent under section 181(1).
- (5) For the purposes of subsection (2), the “date of final distribution” is the date on which all of the estate distributed has been placed beyond the control of the trustee.
- (6) A creditor who does not respond to the application within 14 days after it is made is deemed to have agreed to the trustee's discharge.
- (7) If a majority of the creditors in value consent to the application the trustee is discharged.
- (8) On being discharged, the trustee must within 28 days of the discharge—
 - (a) inform AiB of the discharge,
 - (b) send AiB, for registration in the register of insolvencies, a statement of realisation and distribution of estate under the protected trust deed, and
 - (c) send AiB, where accounts submitted under subsection (4)(b) require to be revised, a copy of the revised accounts.
- (9) A statement under subsection (8)(b) must be in such form as may be prescribed for the purposes of that subsection.
- (10) Where the trustee's discharge is granted under this section, the discharge also applies as regards any previous trustee under the trust deed unless, under section 189, a person with an interest obtains an order to the contrary from the sheriff.

Commencement Information

I8 S. 186 in force at 30.11.2016 by S.S.I. 2016/294, reg. 2

[^{F3}186A Replacement of trustee in a protected trust deed

- (1) AiB may, of its own accord or on the representation of any person, appoint itself as trustee in a protected trust deed where AiB is satisfied that—

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- (a) the trustee under a protected trust deed is unable to continue to act under that protected trust deed (including, for example, because the trustee is no longer authorised to act as an insolvency practitioner or because the trustee has died),
 - (b) all reasonable efforts have been made to appoint a replacement trustee but without success, and
 - (c) it is necessary, taking account of all the circumstances, for AiB to become the trustee in the protected trust deed.
- (2) Before appointing itself as trustee under subsection (1), AiB must—
- (a) take into account any representations made by an interested person,
 - (b) consider the public interest, and
 - (c) consider AiB’s capacity and resources.
- (3) Where AiB becomes the trustee in a protected trust deed by virtue of subsection (1), AiB must—
- (a) notify—
 - (i) the debtor, and
 - (ii) each creditor of whom AiB is aware, and
 - (b) make an appropriate entry in the register of insolvencies.

Textual Amendments

F3 Ss. 186A, 186B inserted (1.7.2024) by [The Protected Trust Deeds \(Miscellaneous Amendment\) \(Scotland\) Regulations 2024 \(S.S.I. 2024/198\)](#), regs. 1(1), 6

186B Modification of this Part where Accountant in Bankruptcy becomes trustee in a protected trust deed

- (1) Where AiB becomes the trustee in a protected trust deed by virtue of section 186A(1), this Part and schedule 4 apply to AiB as they apply to a trustee in a protected trust deed, subject to the following modifications.
- (2) The following do not apply—
- (a) section 165 (protected status: the trustee),
 - (b) sections 169 to 171,
 - (c) section 179 (directions to trustee under protected trust deed),
 - (d) section 184A (protected trust deed: refusal of debtor discharge),
 - (e) paragraphs 1 and 2 of schedule 4 (voluntary trust deeds for creditors).
- (3) Section 171A (removal of protected status where material error or irregularity) is to be read as if—
- (a) in subsection (1), for “the trustee must notify AiB” there were substituted “AiB must decide whether the trust deed should cease to have protected status (see section 163)”,
 - (b) subsection (2) were omitted,
 - (c) in subsection (3)—
 - (i) for “subsection (2)” there were substituted “subsection (1)”,
 - (ii) for “the trustee and the debtor” there were substituted “the debtor and every creditor known to AiB (other than any secured creditor who has, as mentioned in paragraph (b)(ii) of the trust deed definition, agreed

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- not to claim under the trust deed for any of the debt in respect of which the security is held”;
- (d) subsection (4) were omitted,
 - (e) in subsection (5)—
 - (i) “or 4” were omitted,
 - (ii) in paragraph (a), for “subsection (2)” there were substituted “subsection (1)”.
- (4) Section 171B (decision under section 171A: application to review) is to be read as if—
- (a) in subsection (1)—
 - (i) “, the trustee” were omitted, and
 - (ii) for “section 171A(2)” there were substituted “section 171A(1)”,
 - (b) in subsection (3), for “section 171A(2)” there were substituted “section 171A(1)”,
 - (c) in subsection (4)(b), “, the trustee” were omitted,
 - (d) in subsection (5)(a), “, the trustee” were omitted.
- (5) Section 180 (information and notification obligations of trustee under protected trust deed) is to be read as if subsections (2) to (4) were omitted.
- (6) Section 181 (administration of trust under protected trust deed) is to be read as if—
- (a) subsections (1)(c), (4) and (5) were omitted,
 - (b) in subsection (2), “AiB” were omitted.
- (7) Section 182 (retention of documents by trustee under protected trust deed) is to be read as if, in paragraph (p), for “, by notice to the trustee” to the end there were substituted “identifies as a document that should be retained.”.
- (8) Section 183 (remuneration payable to trustee under protected trust deed), is to be read as if subsections (2)(b), (3), (4), (7) and (8) were omitted.
- (9) Section 184 (protected trust deed: discharge of debtor) is to be read as if—
- (a) subsections (1)(b), (4) and (9) to (11) were omitted,
 - (b) for subsection (3) there were substituted—
 - “(3) AiB must record the fact and the date of the debtor’s discharge in the register of insolvencies.”,
 - (c) for subsection (5) there were substituted—
 - “(5) AiB must, within 7 days of recording the information referred to in subsection (3), notify the debtor and every creditor known to AiB of the fact and the date of the debtor’s discharge.”.
- (10) Section 184B (protected trust deed: early discharge in extenuating circumstances) is to be read as if—
- (a) for subsection (4) there were substituted—
 - “(4) AiB must record the fact and the date of the debtor’s discharge in the register of insolvencies unless subsection (5) applies.”,
 - (b) subsections (6) and (8) were omitted,
 - (c) in subsection (7), “Before applying to AiB for the discharge of the debtor” were omitted,
 - (d) in subsection (9)—

Changes to legislation: Bankruptcy (Scotland) Act 2016, Cross Heading: Administration, accounting and discharge is up to date with all changes known to be in force on or before 11 July 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) View outstanding changes

- (i) for “an application under subsection (4)” there were substituted “the fact and the date of the debtor’s discharge under subsection (4)”,
 - (ii) paragraph (c) were omitted.
- (11) Section 184C (early discharge in extenuating circumstances: procedure where creditors object) is to be read as if—
 - (a) for subsection (2) there were substituted—
 - “(2) AiB must review its proposal for the purpose of determining whether, taking account of all of the circumstances, it is fair and reasonable that the debtor be discharged.”,
 - (b) subsections (3) and (4) were omitted,
 - (c) for subsection (5) there were substituted—
 - “(5) AiB must notify the outcome of its review to—
 - (a) the debtor, and
 - (b) each creditor to whom notice was sent under section 184B(2).”,
 - (d) for subsection (6) there were substituted—
 - “(6) Where, after conducting a review under subsection (2), AiB determines that the debtor should be discharged from the trust deed, AiB must record the fact and the date of the debtor’s discharge in the register of insolvencies.”,
 - (e) in subsection (7)—
 - (i) for “registers an application” there were substituted “registers the debtor’s discharge”,
 - (ii) in paragraph (b), for “the application” there were substituted “the discharge”,
 - (iii) in paragraph (c), for “the trustee” there were substituted “the debtor and every creditor known to AiB”,
 - (f) subsections (8) and (10) were omitted.
- (12) Section 186 (protected trust deed: discharge of trustee) is to be read as if—
 - (a) subsection (4) were omitted,
 - (b) in subsection (8)—
 - (i) paragraphs (a) and (c) were omitted,
 - (ii) in paragraph (b), for “send AiB, for registration”, there were substituted “register”.
- (13) Section 188 (protected trust deed: appeal) is to be read as if—
 - (a) subsections (1)(a) to (d) and (4) were omitted,
 - (b) in subsection (1)(e), for “section 184C(4)” there were substituted “184C(2)”.]

Textual Amendments

F3 Ss. 186A, 186B inserted (1.7.2024) by [The Protected Trust Deeds \(Miscellaneous Amendment\) \(Scotland\) Regulations 2024 \(S.S.I. 2024/198\)](#), regs. 1(1), 6

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^{F4} **187** **Electronic delivery of notices etc. under this Part**

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Textual Amendments

F4 S. 187 repealed (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), ss. **19(3)**, 59(1)

Changes to legislation:

Bankruptcy (Scotland) Act 2016, Cross Heading: Administration, accounting and discharge is up to date with all changes known to be in force on or before 11 July 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.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 78(2)(a) words in s. 78(2) renumbered as s. 78(2)(a) by [2019 asp 4 s. 7\(2\)\(a\)](#)
- s. 78(2)(b) and word inserted by [2019 asp 4 s. 7\(2\)\(b\)](#)