



Bankruptcy (Scotland) Act 2016

2016 asp 21

PART 14

VOLUNTARY TRUST DEEDS FOR CREDITORS

Effect of protected status etc.

172 Effect of protected status: general

- (1) Where a trust deed has protected status then—
 - (a) subject to section 177, a creditor who (either or both)—
 - (i) is not a notified creditor, or
 - (ii) notified the trustee, during the relevant period, of objection to the trust deed,
has no higher right to recover the debt than a creditor who has acceded to, or been deemed by virtue of section 170(2) to have acceded to, the trust deed, and
 - (b) an application for sequestration of the debtor's estate may not be made by the debtor while the trust deed subsists.
- (2) A creditor ceases to be deemed (by virtue of section 170(2)) to have acceded to a trust deed [^{F1}if AiB agrees that the debtor should not be discharged from the trust deed under section 184A].
- (3) Where a secured creditor's agreement has been obtained by virtue of section 166(2)
 - (b) and the trust deed becomes a protected trust deed, that creditor is not entitled—
 - (a) to make a claim under the protected trust deed for any of the debt in respect of which the security is held,
 - (b) to do diligence against the assets conveyed to the trustee under the protected trust deed, or
 - (c) to petition for the sequestration of the debtor during the subsistence of the protected trust deed.

Changes to legislation: Bankruptcy (Scotland) Act 2016, Section 172 is up to date with all changes known to be in force on or before 23 September 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](#)

Textual Amendments

- F1** Words in s. 172(2) substituted (1.7.2024) by [The Protected Trust Deeds \(Miscellaneous Amendment\) \(Scotland\) Regulations 2024 \(S.S.I. 2024/198\)](#), regs. 1(1), **5(2)**
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Commencement Information

- I1** S. 172 in force at 30.11.2016 by [S.S.I. 2016/294](#), **reg. 2**

Changes to legislation:

Bankruptcy (Scotland) Act 2016, Section 172 is up to date with all changes known to be in force on or before 23 September 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. 31(5)(a) inserted by [2024 asp 9 s. 4\(3\)\(c\)\(i\)](#)
- s. 31(5)(b) inserted by [2024 asp 9 s. 4\(3\)\(c\)\(ii\)](#)
- s. 32(4)(b)(i)(ii) and words substituted for words by [2024 asp 9 s. 5\(3\)\(a\)](#)
- s. 33(1)(aa) inserted by [2024 asp 9 s. 4\(5\)\(b\)](#)
- s. 34(A1) inserted by [2024 asp 9 s. 4\(6\)\(a\)](#)
- s. 34(1)(a)(i)(ii) and words substituted for words by [2024 asp 9 s. 5\(4\)](#)
- s. 34(1A) inserted by [2024 asp 9 s. 4\(6\)\(b\)](#)
- s. 35(2)(a)(b) inserted by [2024 asp 9 s. 4\(7\)\(b\)](#)
- s. 35(2A)(2B) inserted by [2024 asp 9 s. 4\(7\)\(c\)](#)
- s. 35(6)(a)(i)(ii) and words substituted for words by [2024 asp 9 s. 5\(5\)\(b\)](#)
- s. 35(6A)-(6C) inserted by [2024 asp 9 s. 4\(7\)\(e\)](#)
- s. 37A inserted by [2024 asp 9 s. 5\(6\)](#)
- s. 77(6A) inserted by [2024 asp 9 s. 13\(3\)](#)
- 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\(2\)\(b\)](#)
- s. 134(6) inserted by [2024 asp 9 s. 9\(3\)\(c\)](#)
- s. 147A-147C and cross-heading inserted by [2024 asp 9 s. 12\(2\)](#)
- s. 167(3)(b)(ba) substituted for s. 167(3)(b) by [2024 asp 9 s. 10\(2\)\(a\)](#)
- s. 167(4)-(6) inserted by [2024 asp 9 s. 10\(2\)\(b\)](#)
- s. 214(2)(qa) inserted by [2024 asp 9 s. 12\(3\)](#)